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THE CURRENT INDIAN STATUTES

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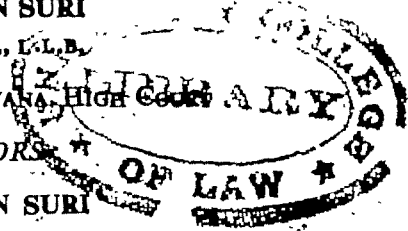
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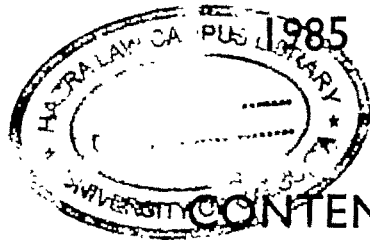


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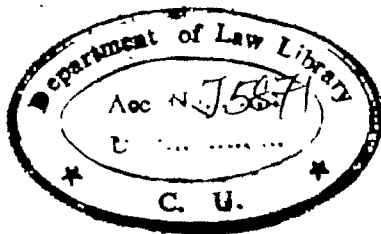
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dated June 16, 1984.

MINISTRY OF HOME AFFAIRS

S.O. 450(E)—(*New Delhi, the 16th June, 1984*)—In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (16 of 1939), the Central Government hereby makes the following order further to amend the Registration of Foreigners (Exemption) Order, 1957, namely :—

1. (1) This order may be called **the Registration of Foreigners (Exemption) (Second Amendment) Order, 1984.**
2. In the Registration of Foreigners (Exemption) Order, 1957, in clause 3,—
 - (1) sub-clause (1) shall be omitted ; and
 - (2) item (b) of sub-clause (2) shall be omitted.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(ii), No. 290,
dated 20th June, 1984.

MINISTRY OF HOME AFFAIRS

S. O. 460(E)—(*New Delhi, the 22nd June, 1984*)—In exercise of the powers conferred by section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920), the Central Government hereby makes the following rules further to amend the Passport (Entry into India) Rules, 1950, namely :—

1. (1) These rules may be called **the Passport (Entry into India) Third Amendment Rules, 1984.**
- (2) It shall come into force on the 24th day of June, 1984.
2. In the Passport (Entry into India) Rules, 1950,—

In clause (iv-a) of rule 5, after the existing proviso the following proviso shall be inserted, namely :—

“Provided further that the Central Government may, by notification in the Official Gazette, suspend the operation of this clause in respect of any or all the aforesaid countries at any time if it deems it necessary so to do in the public interest”.

Published in the *Gazette of India, (Ext.)*, Part-II, Section 3(ii),
No. 281, dated June 16, 1984.

MINISTRY OF HOME AFFAIRS

S. O. 443(E).—(*New Delhi, the 16th June, 1984*).—In exercise of the powers conferred by section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920) the Central Government hereby makes the following rules further to amend the Passport (Entry into India) Rules, 1950, namely :—

1. (1) These rules may be called the **Passport (Entry into India) Second Amendment Rules, 1984**.

(2) They shall come into force on the 13th day of June, 1984.

2. In the Passport (Entry into India) Rules, 1950—

(1) Clause (iii) of rule 5 shall be omitted ; and

(2) in clause (iv) of rule 5, after the words “Proper Indian”, the words “or British” shall be omitted.

Published in the *Gazette of India, (Ext.)*, Part-II, Section 3(ii), No. 281,
dated June 16, 1984.

MINISTRY OF HOME AFFAIRS

S. O. 449(E).—(*New Delhi, the 16th June, 1984*).—In exercise of the powers conferred by section 3-A of the **Foreigners Act, 1946** (31 of 1946), the Central Government hereby rescinds, with effect on the 18th day of June, 1984, the **Foreigners (Exemption) Order, 1957**.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 238, dated July 2, 1984.

MINISTRY OF HEALTH AND FAMILY WELFARE

G. S. R. 487(E).—(*New Delhi, the 2nd July, 1984*).—Whereas a draft of certain rules further to amend the Drugs and Cosmetics Rules, 1945 was published, as required by sections 12 and 33 of the Drugs and Cosmetics Act, 1940 (23 of 1940), under the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. G. S. R. 31(E) dated the 18 January, 1983 at pages 1-2 of the *Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i)* dated the 13th January, 1983 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of ninety days from the date of publication of the draft notification in the Official Gazette ;

And whereas the said Gazette was made available to the Public on the 2nd February, 1983.

And where no objections, suggestions has been received from the public on the said draft rules ;

Now, therefore, in exercise of the powers conferred by Sections 12 and 33 of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government, after consultation with the Drugs Technical Advisory Board, hereby makes the following rules, further to amend the Drugs and Cosmetics Rules, 1945, namely :—

1. (1) These rules may be called the **Drugs and Cosmetics (Fourth Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 61 of the Drugs and Cosmetics Rules, 1945 (hereinafter referred to as the said rules) in sub-rule (2), for the proviso the following proviso shall be substituted, namely :—

“Provided that a licence in Form 21-A shall not be granted for drugs specified in Schedule C and shall be valid for only such schedule C(1) drugs as are specified in the licence.”

3. In rule 96 of the said rules, in sub-rule (1), in the proviso to clause (viii) for the words “Provided that” the following shall be substituted namely :—

“Provided that drugs in bulk form included in Schedule C(1) which are not ready for use need not bear on the label the date of expiry of potency fixed by the manufacturer :

Provided further that”

4. In Schedule A to the said rules,—

(i) in Form 19-A.

(a) In paragraph 1, in sub-paragraph

(ii) for the words, letters, brackets and figures “drugs specified in Schedule C and C(1)”, in both the places where they occur, the words, letters, brackets and figures “drugs specified in Schedule C(1)” shall be substituted ;

(b) in paragraph 4, for the words, letters, brackets and figures “Schedules C and C(1)”, the word, letter, brackets and figure “Schedule C(1)” shall be substituted.

(iii) In Form 21-A for the words, letters bracket and figure “Schedules C and C(1)”, wherever they occur, the word, letters, brackets and figure “Schedule C(1)” shall be substituted.

5. In Schedule C to the said rules, for serial number II and the entries relating thereto, the following serial number and entry shall be substituted, namely :—

“11. Antibiotics and preparations thereof in a form to be administered parenterally.”

6. In Schedule C(1) of the said rules, for serial number 9 and the entries relating thereto, the following serial number and entry shall be substituted, namely :—

“9. Antibiotics and preparations thereof not in a form to be administered parenterally.”

Published in the *Gazette of India*, (Ext), Part II, Section 3(ii),
No 272, dated June 11, 1984.

MINISTRY OF COMMERCE

S. O 437(E)/No. E (C)O, 1977/AM(237) —(New Delhi, the 11th June, 1984).—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following order further to amend the Export (Control) Order, 1977, namely :—

1. This order may be called the **Export (Control) Seventh Amendment Act, 1984.**

2. In the Exports (Control) Order, 1977 the existing condition appearing in Column 4 of O. G. L. No. 3 in Schedule-III against S. No. 14-A the following shall be substituted :—

“14-A Export allowed subject to minimum export price of Rs. 19,000 per MT f. o. b.”

Published in the *Gazette of India, (Ext.)*, Part-II, Section 3(ii)
No. 307, dated June 30, 1984.

MINISTRY OF COMMERCE

S. O. No. 486(E).—(*New Delhi, the 30th June, 1984*).—In pursuance of the notification of the Government of India in the Ministry of Home affairs No. 529(E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of July, 1984 as the date on which the **Imports and Exports (Control) Act, 1947** (13 of 1947) shall come into force in the State of Sikkim.

Published in the *Gazette of India(Ext.)* Part-II Section 3(ii),
No. 260, dated June 11, 1984.

MINISTRY OF LABOUR AND REHABILITATION.

S. O. 411 (E). (*New Delhi, the 31st may, 1984*)—In exercise of the power conferred by sub-section (2) of section 1 of the **Mines (Amendment) Act, 1983** (42 of 1983), the Central Government hereby appoints the 31st day of May, 1984 as the date on which the said Act, shall come into force.

Published in the *Gazette of India, (Ext.)*, Part-II, Section 3(ii),
No. 322, dated July 11, 1984.

MINISTRY OF COMMERCE

S. O. 499(E)/No. E(C)O, 1977/AM(288).—(*New Delhi, the 11th July, 1984*).—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely :—

1. This order may be called the **Exports (Control) Eighth Amendment Order, 1984.**

2. In the Exports (Control), Order, 1977.—

(i) In Part 'A' of Schedule I, the existing entries appearing at S. No. 41 (xvii) to 41 (xx) shall be deleted.

(ii) in OGL-4 of Schedule III, in Col. 2, in place of the existing entry at S. No. 23 the following shall be substituted, namely :—

“Iron and Steel other than cast iron pipes fittings, the following :—

Steel produced by intergrated steel plants, secondary producers and rerollers.

(iii) In OGL-4 of Schedule III, the existing entry appearing against S. No. 24 shall be deleted.

(iv) In OGL-3 Schedule III, in Col. 3, the existing entries against S. No. 71 and 72(i) to read as “B. 80 (iv) and B. 80 (v)”.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 329, dated July 13, 1984.

MINISTRY OF COMMERCE

S. O. 505(E)/No. E(C)O, 1977/AM(289).—(*New Delhi, the 13th July, 1984*)—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (13 of 1947), the Central Government hereby makes the following order further to amend the Export (Control) Order, 1947, namely :—

1. This order may be called the **Export (Control) Ninth Amendment Order, 1984.**

2. In the Exports (Control) Order, 1977, the existing condition appearing in Column 4 of OGL No. 3 in Schedule III against Sl. No. 34, the following shall be substituted :—

“3. Export allowed to all permissible destinations except to countries having a common land frontier with India Subject to Minimum Export Price of Rs. 1000 per kg. F. O. B.”

Published in the *Gazette of India (Ext)*, Part II, Section 3(ii),
No. 346, dated July 24, 1984.

MINISTRY OF FINANCE

S. O. 527(E).—(*New Delhi, the 24th July, 1984*).—In exercise of the powers conferred by Section 295 of the Income tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income-tax (Second Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the income-tax Rules, 1962,—

(a) in rule 122, for the words, brackets, letters and figures, “the Income tax Officer under clause (c) sub-section (1) of section 281A”, the following words, brackets, figures and letters shall be substituted, namely :—

“the Commissioner under sub-section (1) or sub-section (1-A) or sub-section (1B) of Section 281A”.

(b) for rule 123, the following rule shall be substituted, namely :—

“123. Application for obtaining certified copies of certain notices :—

An application to the Commissioner under sub-section (2) of Section 281A for furnishing a certified copy of the notice given under sub-section (1) or sub-section (1A) or sub-section (1B) of that section shall be made in Form No. 54” ;

(c) for rule 124, the following rule shall be substituted, namely.—

“124. Fees for obtaining certified copy of notice :—

Fees to be paid for the issue of a certified copy of the notice under sub-section (1) of sub-section (1A) or sub-section (1B) of section 281A, shall be two rupees for such copy.”

(d) in Appendix II, for Form Nos. 53 and 54, the following Forms shall be substituted, namely :—

FORM NO. 53

[See rule 122]

Notice to the Commissioner of Income-tax under section 281A* (1)/281A (1A)/281A (1B) of the Income-tax Act, 1961.

To

The Commissioner of Income-tax,

Sir,

*I/We—_____hereby bring to your notice that the property, particulars of which are given below, is held by—_____
_____as my/our benamidar and that I am/we are the real owner(s) of the said property ;

- (a) Detailed description of the property—
 (b) Address of the benamidar—
 (c) Date of which the right, title or interest to or in the property was acquired—
 (d) Consideration paid for acquiring the right, title or interest—

Date : _____

Signature.

Permanent Account Number, if any.

Address.

FORM NO. 54.

[See Rule 123]

Application under Section 281A(2) for obtaining a certified Copy of notice under section 281A(1) 281A(1A) 281(1B) of the Income-tax Act, 1961.

To

The Commissioner of Income-tax,

Sir,

This is to state that the property, particulars of which are given here-under, is held by _____ (Name and address of benamidar) as my/our benamidar.

Detailed Description of the Property.

*Notice under section 281A(1)/281A(1A) 281A.(1B) in respect of the aforesaid property was given by me/us on _____ day of _____ 19____ As I/We purpose to institute a suit to enforce my/our right in the aforesaid property in the Court of _____ it is requested that the certified copy of the notice under section 281 (1) 281A(1A)/281A(1B) may be issued to *me/us.

I/we enclose a receipted treasury chalan for for Rs. 2 evidencing payment of the prescribed fee.

Place :

Dated :

Signature

Permanent Account No.

Address.

*Delete whichever is not applicable.

*The prescribed fee should be credited in a branch of the authorised bank or branch of the State Bank of India or the Reserve Bank of India after obtaining a challan from the Income-tax Officer.

Published in the *Gazette of India (Ext.)*, Part-II Section 3(ii),
 No. 371, dated August 3, 1984.

MINISTRY OF COMMERCE

S.O. 562(E)/No. E(C). O-1977/AM(290).—(New Delhi, August 3, 1984).—
 In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely :—

1. This order may be called the **Exports (Control) Tenth Amendment, Order, 1984.**

2. In Part 'A' Schedule 1, the existing item appearing against Sl. No. 22 (xix) shall be substituted by the following :—

"Calcined magnesite with silica content below 6.5 per cent and dead burnt magnesite with silica content below 2 per cent."

(ii) In OGL No. 3, Schedule III, in column 4, the existing condition appearing against SL. No. 28, shall be substituted by the following :—

"Export of dead burnt magnesite with silica content over 2 per cent will be allowed on production of a certificate from the Export Inspection Agency that the silica content in dead burnt magnesite is not below 2 per cent."

Published in the *Gazette of India, (Ext.)*, Part-II, Section 3(ii),
No. 372, dated August 3, 1984.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

S. O. 553(E).—(*New Delhi, the 1st August, 1984.*)—In exercise of the powers conferred by section 2A of the **Monopolies and Restrictive Trade Practices Act, 1969** (54 of 1969), the Central Government hereby authorises the **Board of Company Law Administration**, constituted under Section 10E of the Companies Act, 1956 (1 of 1956), to decide all question of the nature referred to in the said section 2A, and in so doing, that Board may follow, as far as practicable, the provisions of the Company Law Board (Bench) Rules, 1975.

Published in the *Gazette of India, (Ext.)*, Part-II, Section 3(ii),
No. 379, dated August 7, 1984

MINISTRY OF EDUCATION AND CULTURE

S. O. 584(E).—(*New Delhi, the 7th August, 1984*)—In exercise of the powers conferred by sub-section (2) of section 1 of the **Vishva-Bharti Amendment Act, 1984** (31 of 1984) the Central Government hereby appoints the 8th day of August, 1984 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part-II, Section 3(ii),
No. 26, dated June 30, 1984.

MINISTRY OF COMMUNICATIONS

G. S. R. 679.—(*New Delhi, the 20th June, 1984.*)—In exercise of the powers conferred by Section 7 of the Indian Telegraph Act, 1885 (13 of 1885), the Central Government hereby makes the following rules further to amend the Indian Telegraph Rules, 1951, namely :—

1. (1) These rules may be called the **Indian Telegraph (Fifth Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 507 of the Indian Telegraph Rules, 1951, for the words "two years", the words "three years" shall be substituted.

Published in the *Gazette of India*, Part-II, Section 3(i),
No. 25, dated June 23, 1984.

MINISTRY OF RAILWAYS

G. S. R. 632.—(*New Delhi, the 31st May, 1984.*)—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the president hereby makes the following rules further to amend the Railways Servants (Discipline and Appeal) Rules, 1968, namely :—

1. (1) These rules may be called the **Railways Servants (Discipline and Appeal) First Amendment Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Railways Servants (Discipline and Appeal) Rules, 1968, in part VII after Rule 26, the following rule shall be inserted, namely :—

“26A. Service of orders, notices etc. on behalf of the Railway Board of President—Any of the following Officer in the Ministry of Railways shall be competent to sign on behalf of the Railway Board or President any notice, process, order etc. made or issued under these rules :—

1. Secretary, Railway Board/Director.
2. Joint Secretary/Additional Director.
3. Deputy Secretary/Joint Director.

Published in the *Gazette of India*, (Ext.), Part-II, Section 3(i),
No. 7, dated February 18, 1984.

MINISTRY OF COMMUNICATIONS

G. S. R. 190.—(*New Delhi, the 31st January, 1984.*)—In exercise of the powers conferred by Section 7 of the Indian Telegraph Act, 1895 (13 of 1885), the Central Government hereby makes the following rules further to amend the Indian Telegraphs Rules, 1951, namely :—

1. (1) These rules may be called the **Indian Telegraph (Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Indian Telegraph Rules, 1951, in rule 2, for clause (ss), the following clause shall be substituted, namely :—

“(ss) the telegraph means written or printed matter intended to be transmitted by telegraph and includes a radio-telegram or a phototelegram.”

Published in the *Gazette of India*, (Ext.), Part-II, Section 3(i),
No. 13, dated March 31, 1984.

MINISTRY OF TOURISM AND CIVIL AVIATION

G. S. R. 340.—(*New Delhi, the 21st March, 1984.*)—Whereas certain draft rules further to amend the Aircraft Rules, 1937 were published with the notification of the Government of India in the Ministry of Tourism and Civil Aviation No. G. S. R. 285 dated 26th February, 1983 in the *Gazette of India*, Part II, Section 3, Sub-section (i) dated 2nd April, 1983 inviting objections and suggestions from all persons likely to be affected thereby :

And whereas copies of the said Gazette were made available to the public on the 2nd April, 1983.

And whereas no objections or suggestions have been received from the public on the said draft.

Now therefore in exercise of the powers conferred by section 5 of the Aircraft Act, 1934 (22 of 1934), the Central Government hereby makes the following rules further to amend the Aircraft Rules, 1937, namely :—

1. These rules may be called the **Aircraft (First Amendment) Rules, 1984.**

2. In Schedule II of the Aircraft Rules, 1937, in sub-para (b) of Para 6 of Section 'P' for the words and figures 'not more than 5 hours shall be on an approved synthetic device', the words and figure 'not more than 8' hours shall be on a synthetic device as approved by the Director General shall be substituted.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 20, dated May 19, 1984

MINISTRY OF FINANCE

G. S. R. 484.—(*New Delhi, the 19th May, 1984*).—In exercise of the powers conferred by section 75 of the Customs Act, 1962 (52 of 1962) and section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Customs and Central Excise Duties Drawback Rules, 1971, namely :—

1. (1) These rules may be called the **Customs and Central Excise Duties Drawback (Amendment) Rules, 1984.**

(2) They shall come into force on the 1st day of June, 1984.

2. In the Customs and Central Excise Duties Drawback (Amendment) Rules, 1984.

(a) In rule 6, in sub-rules (1), in clause (a),—

(i) in the opening paragraph for the words "sixty days", the words "one hundred and twenty days" shall be substituted.

(ii) in the proviso,—

(a) for the words "sixty days" the words "one hundred and twenty days" shall be substituted.

(b) for the words "thirty days", the words "sixty days" shall be substituted.

(b). In rule 7, in sub-rule (1),—

(i) in the opening paragraph for the words "sixty days", the words "one hundred and twenty days" shall be substituted ;

(ii) in the proviso,—

(a) for the words "sixty days", the words "one hundred and twenty days" shall be substituted ;

(b) for the words "thirty days", the words "sixty days" shall be substituted.

Published in the *Gazette of India*, Part II, Section 3(i), No. 24,
dated June 16, 1984.

CENTRAL EXCISES

G. S. R. 589.—(*New Delhi, the 16th June, 1984*).—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944 namely :—

1. (1) These rules may be called the **Central Excise (7th Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 191-A of the Central Excise Rules, 1944, in sub-rule (9), after the words "on which the manufactured goods were sealed by the proper officer before despatch", the following words shall be inserted, namely :—

"or within such extend period, but not exceeding a total period of two years as the Collector may in any particular case allow."

Published in the *Gazette of India*, Part II, Section 3(i), No. 25, dated June 23, 1984.

MINISTRY OF FINANCE

G. S. R. 635.—(*New Delhi, the 23rd June, 1984*).—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944 namely :—

1 (1) These rules may be called the **Central Excise (9th Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 1944, in rule 173K, in sub-rule (1) in the substituted sub-clause (c) of clause (1) of sub-rule (3) of rule 56A, for the words "forty-eight hours", the word "twenty four hours" shall be substituted.

Published in the *Gazette of India*, (*Ext.*), Part II, Section 3(ii), No. 271, dated June 8, 1984.

MINISTRY OF COMMERCE

S. O. 436(E).—(*New Delhi, the 8th June, 1984*).—In exercise of the powers conferred by sub-section 48 of the Coffee Act, 1942 (7 of 1942) the Central Government hereby makes the following rules further to amend the Coffee, Rules, 1955, namely :—

1. (1) These rules may be called the **Coffee (Amendment) Rules, 1940**.

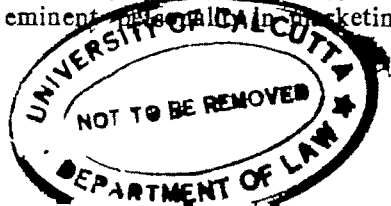
(2) They shall come into force on the date of their publication in the Official Gazette.

2. (1) In clause (II) of rule 2, for the words "not less than 50 acres" the words "not less than 25 acres" shall be substituted.

(2) In sub-rule (2) of rule 3, for clauses (b) and (c) the following shall respectively be substituted, namely :—

"(b) ten members shall represent the coffee growing industry of whom three shall represent large growers and seven shall represent the small growers, provided that not less than three of such members shall represent the Robusta growers.

(c) There members shall represent the coffee trade interests, two members shall represent the curing establishment, four members shall represent the interests of labour, two members shall represent the interest of consumers, two members shall represent the interest of coffee growing states other than those mentioned in clause (a) of sub-rule (2) of rule 3, one shall represent the manufacturers of instant coffee and one member shall be an eminent scientist from a research institute or an agricultural university or eminent person in the marketing, management or promotion of coffee."



3. In sub-rule (2) of rule 45, for clause (ii), the following shall be substituted, namely :—

“(ii) The Board may, at any time, after giving a reasonable opportunity to the curing establishment to be heard, cancel a licence, if it is satisfied that the curing establishment has committed a breach of the provisions of the Act or of these rules or of the conditions of licence issued”.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 273, dated June 12, 1984.

MINISTRY OF AGRICULTURE

S. O. 438(E).—(New Delhi, the 12th June, 1984.) In exercise of the powers conferred by Section 25 of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 (42 of 1981) the Central Government hereby amends the Maritime Zones of India (Regulation of Fishing by Foreign Vessel) Rules, 1982, as follows, namely :—

1. (1) These rules may be called the **Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Second Amendment Rules, 1984**.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules, 1982,—

(i) after rules 15, the following rule shall be inserted, namely :—

“15A. Form of application by owner or master of seized vessel/ other things.—The owner or the master of a foreign fishing vessel or other things seized under the first proviso to clause (a) of Sub-section (4) of Section 9, may make an application in Form K for the release of the vessels or other things so seized.”

(ii) after Form J, the following form shall be added, namely :—

“Form K

[See rule 15A]

Form of application by the owner or the Master of Vessel for Releasing the vessel/things seized.

To

The Metropolitan Magistrate/Judicial Magistrate,

Sir,

I, as owner/master of the vessel, hereby apply for release of the vessel/things, more particularly described hereinafter, seized under sub-section 2 of Section 9 of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981.

(1) Description of the Vessel.

(a) Name of the Vessel.

(b) Flag State and home port of Vessel.

(c) Country and port of registration.

(d) Registration number.

(e) Name of owner and master of the Vessel.

(f) Nationality and address of owner and master.

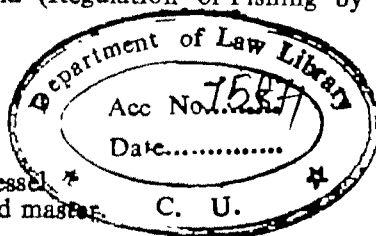
(g) Registered length.

(h) Registered breadth.

(i) Registered depth (draft).

(j) Gross tonnage and net tonnage.

(k) Kind of main engine, name and place of main engine manufactured.



- (1) Rated H. P. of main engine.
- (2) Description of fishing gear.
- (3) Description of other equipments, stores and cargo on board the vessel.

I hereby furnish the cash security of Rs. _____ a Bank guarantee for an amount of Rs. _____ as required. Chalan No. _____ dated _____ in token or cash security deposited/*Bank guarantee in original given by _____ on _____ is hereby enclosed.

Signature of the owner/master of the vessel.

Place :

Dated :

*Strike the phrase not applicable.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii), No. 341, dated July 18, 1984.

MINISTRY OF INDUSTRY

S. O. 522 (E).—*New Delhi, the 18th July, 1984.*—In exercise of the powers conferred by Section 18G and Section 25 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following order further to amend the Cement Control Order, 1967, namely :—

1 (i) This order may be called the **Cement Control (Second Amendment) Order, 1984.**

(ii) It shall come into force with immediate effect.

2. In the Cement Control Order, 1967,—

(i) in clause 2 (d), for the figures “66.6” the figures “65” shall be substituted ;

(ii) in clause 3, for entries (a) to (e), the following shall be substituted, namely :—

“(a) Water proof (hydrophobic) cement at Rs. 564.00 per matric tonne.

(b) rapid hardening cement and low heat cement at Rs. 555.00 per matric tonne.

(c) high strength ordinary portland cement conforming to IS Specification No. IS-8112-1976 at Rs. 555.00 per matric tonne.

(d) ordinary portland cement and portland slag cement at Rs. 532 per matric tonne.

(e) portland pozzolana cement and masonry cement Rs. 517 per matric tonne.”

(ii) in the Schedule, under the heading “Ex-factory price per matric tonne (in rupees)”,—

(a) in item (i), for the letters and figures “Rs. 335.00” the letters and figures “Rs. 375.00” shall be substituted ;

(b) in item (ii) for the letters and figures “Rs. 320.00” the letters and figures “Rs. 360.00” shall be substituted.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(ii), No. 351,
dated July 27, 1984.

MINISTRY OF INDUSTRY

S. O. 533 (E).—(*New Delhi, the 27th July, 1984*).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Paper (Regulation of Production) Order, 1978 namely :—

1. (1) This Order may be called the **Paper (Regulation of Production) Amendment Order, 1984**.

(2) It shall come into force at once.

2. In the (Paper Regulation of Production) Order, 1978, in clause 10,—

(i) for sub-clause (a), the following sub-clause shall be substituted, namely :—

“(a) manufacturers whose installed capacity for the manufacture of of paper and paper board is not more than 24,000 tonnes per annum and also not having a plant attached thereto for making bamboo or wood pulp.”

(ii) after sub-clause (a), the following Explanation shall inserted, namely :—

“*Explanation*.—For the purposes of this clause, the installed capacity may be determined having regard to the total quantity of clearances of all varieties of paper and paper boards in the proceeding financial years, by or on behalf of a manufacturer from one or more factories.”

Published in the *Gazette of India* Part II, Section 3(i), No. 2,
dated January, 14, 1984

MINISTRY OF ENERGY

G. S. R. 29.—(*New Delhi, the 24th December, 1983*).—Whereas certain draft rule further amend the Indian Electricity Rules, 1956, were published as required under Sub-section (1) of Section 38 of the Indian Electricity Act, 1910 (9 of 1910), with the notification of the Government of India in the Ministry of Energy, (Central) Electricity Board, GSR No. 644, dated the 12th July, 1982 on 31st July 1982 in the *Gazette of India*, Part-II Section 3, sub-section (1) inviting objections or suggestions from all persons likely to be affected thereby, till the expiry of the period of 90 days from the date on which the copies of the *Gazette of India* in which the notification was published were made available to the public ;

And whereas the copies of the said *Gazette* were made available to the public.

And whereas objections and suggestions received on the draft rules were considered by the Central Electricity Board.

Now, therefore, in exercise of the powers conferred by Section 37 of the said Act, the Central Electricity Board hereby makes the following rules further to amend the Indian Electricity Rules, 1956 namely :—

RULES

1. (1) These rules may be called the **Indian Electricity (Amendment) Rules, 1983**.

(2) They shall come into force on the date of their final publication in the Official *Gazette*.

2. In the Indian Electricity Rules, 1956—

(1) in sub-rule (2) of rule 4A, for the words, brackets and figures “sub-rule (1) of rule 49 and sub-rule (6) of rule 61” the words, brackets and figures “sub-rule (1) of rule 49, sub-rule (6) of rule 61 and clause (b) of sub-rule (5) of rule 67” shall be substituted.

(2) in clause (c) of sub-rule (2) of rule 46, for the words “under his direction”, the words “under the directions of the Inspector” shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II Section 3 (i),
No. 9 dated March 3, 1984.

MINISTRY OF LABOUR & REHABILITATION

G. S. R. 258.—(*New Delhi, the 13th February, 1984*).—Whereas the draft of certain rules further to amend the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973 made under sub-section (1) of Section 16 of the Limestone and Dolomite Mines Act were published under the notification of Government of India in the Ministry of Labour and Rehabilitation Department of Labour No. G. S. R. 790 dated the 5th October, 1983 inviting objections and suggestions from all persons likely to be affected thereby, on or before the expiry of forty-five days from the date of publication of the notification :

And whereas the said Gazette was made available to the public on 22nd October, 1983 :

And whereas no objection or suggestion have been received from the public on the said draft by the Central Government

Now, therefore, in exercise of the powers conferred by section 16 of the Act, the Central Government hereby makes the following rules namely :—

1. These rules may be called the **Limestone and Dolomite Mines Labour Welfare Fund (Third Amendment) Rules, 1984**.

2. In the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973 ;

(1) in rule 3, in sub-rule (1)(a), for clause (i) the following clause shall be substituted namely :—

“(i) The Labour Minister, Minister of State in the Ministry of Labour or the Deputy Labour Minister shall be the Chairman” ;

(2) in Form K, for the words, brackets, letters and figures “clause (d) of sub-rule (1) of rule 49”, the following words, brackets, letters and figures shall be substituted, namely :—

“clause (d) of sub-rule (1) of rule 50”.

Published in the *Gazette of India* Part II, Section 3(ii), No. 23,
dated May 17, 1984.

MINISTRY OF ENERGY

G. S. R. 567.—(*New Delhi, the 17th May, 1984*).—In exercise of the powers conferred by section 3 read with section 7 of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948) the Central Government hereby makes the following scheme further to amend the Coal Mines Provident Fund Scheme, 1948, namely :—

1. (1) This Scheme may be called the **Coal Mines Provident Fund (Amendment) Scheme, 1984**.

(2) It shall come into force on the date of its publication in the official Gazette.

2. In the Coal Mines Provident Fund Scheme, 1948,—

(a) for the existing paragraph 65B, the following paragraph shall be substituted, namely :—

“65B. Advance from the Fund for the purchase of the dwelling house/flat or for the construction of a dwelling house including the acquisition of a suitable site for the purpose.

(1) The Commissioner, or where so authorised by the Commissioner any other subordinate to him, may on application from a member in such form as may be prescribed by the Commissioner and subject to the conditions prescribed in this paragraph sanction from the amount standing to the credit of the member in the fund, a non-refundable advance :

(a) for purchasing a dwelling house or a flat including a flat in a building owned jointly with others (outright or on hire purchase basis) or for constructing dwelling house including the acquisition of a suitable site for the purpose from the Central Government, the State Government, a Co-operative Society an institution a trust a local body or a Housing Finance Corporation (hereinafter referred to as the agency or agencies), as the case may be :

OR .

(b) for purchasing a dwelling site for the purpose of construction of a dwelling house or a ready-built house or a Flat from any individual provided the said house or flat to be purchased is new and un-lived one ;

(c) for the construction of a dwelling house on a site owned by the member or the spouse of the member or jointly by the member and the spouse or for completing or continuing the construction of a dwelling house already commenced by the member or the spouse, on such site ;

(d) for making addition or alteration to an existing house owned by the member or the spouse of the member or jointly by the member and the spouse.

Explanation.—(1) In this paragraph, the explanation, co-operative Society means a society registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912) or under any other law for the time being in force in any State relating to Co-operative Societies.

Explanation.—(2) In this paragraph the fact of a new and un-lived house or flat shall be determined with the reference to the certificates relating to the number and date of approval of the building plan, the date of commencement and completion of the house or the flat and tax bills and receipts issued by the appropriate authorities and wherever necessary, by neighbour enquiries.

(2) The amount of advance shall not exceed the member's total emoluments for twenty four months or the member's own share of contribution with interest thereon standing to his credit on the date of authorisation of payment or the actual costs towards the acquisition of the dwelling site together with the costs of construction thereon or the purchase of the dwelling house or flat or the construction of the dwelling house, whichever is the least.

Explanation.—The actual costs towards the acquisition of the dwelling site or the purchase of dwelling house or flat shall include charges payable towards registration of such site, house or flat.

(3) (a) No advance under this paragraph shall be granted unless :

(i) the member has completed twelve years membership of the Fund ;

(ii) the member's own share of contribution with interest thereon standing to his credit in the Fund is not less two thousand rupees ;

(iii) the dwelling site or the dwelling house or flat or the house under construction or addition or alteration is free from encumbrances :

Provided that where a dwelling site or a dwelling house or a flat is mortgaged to any of the agencies referred to in clause (a) of sub-paragraph (1) solely for having obtained funds for the purchase of a dwelling house including the acquisition of a suitable site for the purpose of such a dwelling site or a dwelling house or flat as the case may, be shall not be deemed to be an encumbered property ;

Provided further that a land acquired on a perpetual lease or on lease for a period of not less than 30 years for constructing a dwelling house or a flat, or a house or a flat built on such a leased land, shall also not be deemed to be an encumbered property :

Provided also that where the site of the dwelling house or flat is held in the name of any agency, referred to in clause (a) of sub-paragraph (1) and the allottee is precluded from transferring or otherwise disposing of the house or flat without the prior approval of such agency, the mere fact that the allottee does not have absolute right or ownership of the house or flat and the site is held in the name of the agency, the mere fact that the allottee does not have absolute right or ownership of the house or flat and the site is held in the name of the agency, shall not be a bar to the giving of an advance under clause (a) of sub-paragraph (1), if the other conditions mentioned in this paragraph are satisfied.

(b) No advance shall be granted for purchasing share in a joint property or for constructing a house on a site owned jointly except on a site owned jointly with the spouse.

(4) Subject to the limitation prescribed in sub-paragraph (2)—

(a) where the advance is for the purchase of a dwelling house or a flat or a dwelling site from an agency referred to in clause (a) of sub-paragraph (1), the payment of advance shall not be made to the member but shall be made direct to the agency in one or more instalments, as may be authorised by the member :

(b) where the advance is for the construction of dwelling house it shall be sanctioned in two equal instalments, the first on application and the second when the construction reaches within level ;

(c) where the advance is for the acquisition of a dwelling site for the purpose of construction of a dwelling house thereon from any individual or any agency the amount shall be paid in not less than two equal instalments the first instalment at the time of acquisition of the dwelling site and the remaining at his request at the time of construction of a dwelling house on such dwelling site ;

(d) when the advance is for making addition or alterations to an existing house, the advance shall be sanctioned in two equal instalments, first at the time of application and second after commencement of the addition or alterations.

(5) Where an advance is sanctioned for the construction of a dwelling house, the construction shall commence within six months of the withdrawal of the first instalment and shall be completed within twelve months of the withdrawal of the final instalment. Where the advance is sanctioned for the purchase of a dwelling house or a flat or for the acquisition of a dwelling site, the purchase or acquisition as the case may be shall be completed within six months of the withdrawal of the amount :

Provided that this provision shall not be applicable in case of purchase of a dwelling house or a flat on hire purchase basis and in cases where a dwelling site is to be acquired or houses are to be constructed by a Co-operative Society on behalf of its members with a view to their allotment to the members.

(6) Except in the cases specified in sub-paragraph (7) no further advance shall be admissible to a member under this paragraph.

(7) An additional advance up to six months total emoluments of the member's own share of contributions with interest there on in the amount standing to his credit in the Fund, whichever, is less, may be granted to member for whom advances had been granted under clause (a) or (b) or (c) of sub-paragraph (1), once and in one instalment only, for addition, substantial alteration or improvement necessary to the dwelling house owned by the member and the spouse:

Provided that the advance shall be admissible only after a period of five year from the date of completion of the dwelling house.

(8) The member shall produce the title deed and such other documents as may be required for inspection which shall be returned to the member after the grant of advance.

(9) (a) If the advance granted under this paragraph exceed the amount actually spent for the purpose for which it was sanctioned the excess amount shall be refunded by the member to the Fund in one lumpsum within thirty days of the finalisation of the purchase, or the completion of the construction of, or necessary additions, alterations or improvements to a dwelling house, as the case may be. The amount so refunded shall be credited to the employer's share of contributions in the member's account in the Fund to the extent of advance granted out of the said share and the balance ; if any, shall be credited to the member's share of contributions in his account.

(b) In the event of the member not having been allotted a dwelling site or a dwelling house or a flat, or in the event of the cancellation of an allotment made to the member and in the event of refund of the amount by the agency referred to in clause (a) of sub-paragraph (1) or in the event of the member not being able to acquire the dwelling site or to purchase the dwelling house or a flat from any individual or to construct the dwelling house, the member shall be liable to refund to the Fund in one lumpsum and in such manner as may be specified by the Commissioner, any officer subordinate to him, the amount of advance remit-

ted under this paragraph to him or, as the case may be, to the agency referred to in clause (a) of sub-paragraph (1).

The amount so refunded shall be credited to the employer's share of contributions in the member's accounts in the Fund or the extent of advance granted out of the said share and the balance, if any, shall be credited to the members own share of contribution in his account.

(10) If the Commissioner, or where so authorised by the Commissioner, any officer or subordinate to him is satisfied that the advance granted under this paragraph has been utilised for a purpose other than that for which it was granted or the member refused to accept an allotment or to acquire a dwelling site or that the condition of advance have not been fulfilled or that there is reasonable apprehension that they will not be fulfilled wholly or partly, or that the excess amount will not be refunded or remitted back to the member by any agency referred to in clause (a) of sub-paragraph (1) will not be refunded in terms of clause (b) of sub-paragraph (9) the Commissioner or where so authorised by Commissioner any officer subordinate to him may determine, shall forth with take steps to recover the amount due with penal interest thereon at the rate of two per cent per annum from the wages of the member in such number of instalments as the Commissioner or where so authorised by the Commissioner officer subordinate to him, may determine, for the purpose of such recovery, the Commissioner or were so authorised by the Commissioner any officer subordinate to him may direct the employer to deduct such instalment from the wages of the member and on receipt of such direction, the employer shall deduct accordingly. The amount so deducted shall be remitted by the employer to the Fund within such time and in such manner as may be specified in the direction: The amount so refunded excluding the penal interest shall be credited to the employer's share of contributions in the member's account in the Fund to the extent of advance granted out of the said share and the balance, if any, shall be credited to the member's own share and the balance, if any, shall be credited to the member's own share of contributions in his accounts the amount of penal interest shall however, be credited to the interest Suspense Account.

(11) Where any advance granted under this paragraph has been misused by the member, no further advance shall be granted to him under this paragraph within a period of three years from the date of grant of the said advance or till the full recovery or the amount of the said advance with penal interest thereon, whichever, is later.

(12) The existing paragraph 65D shall be omitted.

Published in the *Gazette of India (Ext.)* Part II, Section 3 (i),
No. 200 dated June 6, 1984

CENTRAL BOARD OF EXCISE AND CUSTOMS

G. S. R. 437 (E).—(*New Delhi the 19th March, 1984*).—In exercise of powers conferred by sub-section (2) of section 146 of the Customs Act, 1962 (52 of 1962) the Central Board of Excise and Customs hereby makes the following regulations, namely :—

1. *Short title and commencement*—These regulations may be called the **Customs House Agents Licensing Regulations, 1984**.

(2) They shall come into force on the date of their publication in the official Gazette.

2. *Definitions*.—In these regulations, unless the context otherwise requires :—

(a) "Act" means the Customs Act, 1962 (52 of 1962).

(b) "Company" means a company as defined in the Companies Act, 1956 (1 of 1956) ;

(c) "Custom House Agent" means a person licensed under these regulations to act as an agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station ;

(d) "Firm", "firm name", "partner" and "partnership" have the meanings respectively assigned in the Indian Partnership Act, 1932 (9 of 1932), but the expression "partner" shall also include any person, who being a minor has been admitted to the benefits of partnership ;

(e) "form" means a form appended to these regulations ;

(f) "Section" means a section of the Act ;

(g) The expression "Collector and Customs Station", shall have the same meaning as in the Customs Act, 1962 (52 of 1962).

3 *Licence where not required*.—No licence under these regulations shall be required by :—

(a) an importer or exporter transacting any business at a Customs Station solely on his own account ;

(b) any employee of any person or a firm transacting business generally on behalf of such person or firm ; and

(c) an agent employed for one or more vessels in order solely to enter or clear such vessels for work incidental to his employment as such agent.

4. *Invitation of Application*.—The Collector may invite application for the grant of a licence to act as Custom House Agent in the month of January every year by means a notice affixed on the notice board of each Customs Station as well as through publication in at least two newspapers having circulation in the area of his jurisdiction specifying therein the last date of receipt of application. Such application shall reach before clearance work within the jurisdiction of the said Collector.

5. *Application for Licence*.—(1) An application for a licence to act as a Custom House Agent in a custom station shall be made in Form A and shall inter-alia contain the name and the address of the person applying ; and

(2) If the applicant is a firm :—

(a) the name and address of every partner of the firm, the firm name and

(b) the name of the partner or the duly authorised employee, who will actually be engaged in the clearance of goods or conveyances through the customs.

(3) If the applicant is a company :—

(a) the name of each director, manager, managing Director, and

(b) the names of director, manager or the duly authorised employee who will be actually engaged in the clearance of goods or conveyances through the customs.

6. *Condition to fulfilled by the applicant* :—The applicant or the person referred to in clause (b) of sub regulations (2) and (3) of Regulation 5 as the case may be, shall prove to the satisfaction of the Collector that he :

(a) has the experience of work relating to clearance of goods through the customs for a period not less than one year, and

(b) the application has financial viability supported by a certificate issued by a Scheduled Bank or such other proof acceptable to the Collector evidencing possession of assets of the value of not less than Rs. 1 lakh in the case of applicants for the grant of licence in respect of any of the Customs Stations at Bombay, Calcutta Madras, Cochin, Kandla, Goa, Mangalore, Tuticorin or Vishakhapatnam and not less than Rs. 50,000/- in the case of each of the other Customs Stations, situated at places other than those specified above :

Provided that in cases where a Collector's jurisdiction extend to more than one Customs Station the Collector may issue one licence for all the Stations or more than one such Station to be specified in the licence, waiving the need for separate compliance of the provisions of clause (a) and (b) above for such additional Customs Stations. The Collector may also waive the need for separate compliance for the requirement of Regulation 11 in such cases :

Provided further that in places where there is more than one Collector exercising jurisdiction over different Customs Stations and Customs House Licencing Regulations, 1965 have been operating in the said Customs Stations on the basis of one licence, it shall be open to such Agents to obtain a temporary licence under Regulation 8 from the Collector other than the one who has issued them the existing requirements of regulation 6 in regard to financial viability or the requirements as to fresh deposit in terms of regulation 11.

7. *Scrutiny of applications for licence*.—On receipt of application under regulation 5 the Collector may make enquires for verification of the particulars set out in the application and also such other enquires as he may deem necessary including enquiries about the reliability and financial status of the applicant.

8. *Grant of temporary licence*.—(1) Any applicant whose application is received within the last date specified in regulation 4 and who satisfied the requirements of regulation 5 and 6 shall be permitted to operate as Custom House Agent at the Custom Station for which the application is made initially for the period of one year against temporary licences granted by the Collectors in this regard in Form B :

Provided that when evidence is produced to the Collector that the applicant has already availed of two chances for qualifying in the written or oral examination prescribed in these regulation and would like to avail of the third chance as soon as the next examination is held in terms of regulation 9 and that the applicant has been able to account for the minimum value of work prescribed for such agents in the course of one year's working, the Collector may extend the aforesaid period of one year for which the temporary licence has been granted by another six months or such further period not exceeding one year to enable the applicant to avail of third chance for qualifying in the examination in terms of regulation 9. While granting such extension the Collector of Customs shall satisfy him-

self that the requirements of Regulations 10(1)(a) and 10(1)(b) had been fully met by the applicant.

9. *Examination of the applicant*—(1) The holder of a temporary licence in the case of an individual and the person or persons who will be actually engaged in the work of clearance of goods through customs on behalf of the firm or company holding a temporary licence, as the case may be, shall be required to qualify in examination, at the earliest opportunity. Such person or persons shall be eligible to appear in the examination as soon as a temporary licence granted and shall be permitted to avail of three chances within a period of 2 years from the date of issue of the temporary licence on payment of prescribed examination fee of Rs. 250/- for each examination.

(2) The examination referred to in sub-regulation (i) shall include a written and oral examination and will be conducted twice every year. Each applicant would be permitted to avail of a maximum of three chances to qualify in the said examination but all such chances should be availed of within a maximum period of 2 years from the date of grant of temporary licence.

- (3) The examination may include questions on the following :—
- (a) preparation of various kinds of bills of entry and shipping bills ;
 - (b) arrival entry and clearance of vessels ;
 - (c) tariff classification and rates of duty ;
 - (d) determination of value for assessment ;
 - (e) conversion of currency ;
 - (f) nature of description of documents to be filed with various kinds of bills of entry and shipping bills ;
 - (g) procedure for assessment and payment of duty ;
 - (h) examination of merchandise at the Customs Stations ;
 - (i) provisions of the Trade and Merchandise Marks Act, 1958 (43 of 1958) ;
 - (j) prohibitions on imports and exports ;
 - (k) bonding procedure and clearance of bond ;
 - (l) re-importation and conditions for free re-entry ;
 - (m) drawback ;
 - (n) offence under the Act ;
 - (o) the provisions of the allied acts including imports and Exports (Control) Act, 1947 (18 of 1947), Foreign Exchange, Regulation Act, 1972 (46 of 1973), Indian Explosives Act, 1884 (4 of 1884), Arms Act, 1959 (54 of 1959), Opium Act, 1978 (1 of 1978), Drugs and Cosmetics Act, 1940 (23 of 1940), Destructive Insects and Pests Act, 1914 (2 of 1914), Dangerous Drugs Act, (20 of 1930) in so far as they are relevant to the clearance of goods through Customs.
 - (p) Procedure in the matter of refund of duty paid, appeals and revision petition under the Act.

(4) The Collector shall also satisfy himself whether the licence in Form B, if he is an individual, possesses, or in the case of a firm or company, the person who will be actually engaged in the work relating to clearance of goods through customs on behalf of that firm or company, possess satisfactory knowledge of English and the local language of the customs station :

Provided that in the case of persons deputed to work exclusively in the docks knowledge of English will not be compulsory, knowledge of Hindi

will be considered as an additional or desirable qualification.

10. Grant of regular licence.—(1) The Collector shall, on receipt of an application in Form C, grant a regular licence in Form D on payment of a fee of Rs. 500/- to such holder of a temporary licence who qualifies in an examination referred to in Regulation 9 and whose performance is found to be satisfactory with reference, inter-alia, to the following :—

(a) Quantity or value of cargo cleared by such licences conforming to norms as may be prescribed by the Collector ;

(b) absence of instances of delay either in the clearance of goods or in the payment of duty for any reason attributable to such licensee and any complaints of misconduct including non-compliance of any of the obligations specified in regulation 14.

(2) The Custom House Agents who are granted regular licence under regulation 10, shall be liable to work in all Customs Stations subject to fulfilment of the following requirements :

(a) the licensee shall make an application to The Collector of the Concerned Customs Stations where he intends to transact business for purposes of registering himself and his authorised staff ;

(b) he fulfils the conditions stipulated in clause (b) of regulation 6 regulating to financial soundness and possesses the ability to provide, adequate warehousing and Transport facilities at the place of clearance of goods and production of evidence relating to availability of sufficient clientele at his disposal ;

(c) he shall also be required to enter into a separate bond in Form D for due observations of these regulations and to furnish a separate Bank guarantee for each Customs Stations as stipulated under regulation 11.

(d) On fulfilment of the aforesaid conditions the Collector of the Customs Stations at which the Licensee intends to transact business shall grant a licence in Form D. Customs Station, provided that no separate licence would be required at a place handling imports by Sea, there is also an international airport to handle imports by air even if under the jurisdiction of a different Collector.

(3) The Collector may reject an application for the grant of regulation licence to act as Custom House Agent if the holder of the temporary licence fails to qualify in the examination in terms of Regulation 9, or the holder of the temporary licence valuation of his performance in terms of Regulation 10 is not considered suitable due to any other reason to be stated in the orders passed by the Collector.

11. Execution of bond and furnishing of security before granting a temporary licence under regulation 8 or a regular licence under regulation 10, the concerned Collector shall require the applicant to enter into a Bond in Form F for due observation of these Regulations and shall require him to furnish a Bank Guarantee/Postal security/National Savings Certificate in the name of the Collector of Customs for an amount of Rs. 25,000/- or Custom Stations as mentioned in Regulation 6 and Rs. 10,000/- in the case of other Customs Station. For transacting business at more than one Customs Station falling within the jurisdiction of different Collectors a separate bond accompanied by appropriate Bank Guarantee would be required to be executed. If the applicant furnishes postal security or Nation Saving Certificate, the same shall be pledged in the name of Collector and the individual shall get the benefit of interest accruing on it.

12. *Period of validity of a regular licence.*—(1) A licence granted under regulation 10 shall be valid for a period of three year.

(2) On an application made in this behalf to the Collector before the expiry of the period referred to in sub-regulation (1), he may renew the same for a period of three years.

(3) The fee for renewal of a licence under sub-regulation (2) shall be Rs. 100/-.

13. *Licence not transferable.*—Every licence granted under these regulations shall be deemed to have been granted or renewed in favour of the licensee and no licence shall be sold or otherwise transferred.

14. *Obligations of Customs House Agent*—A companies, firm or individuals by whom he is for the time being employed as Customs House Agent and produce such authorisation whenever required by an Assistant Collector of Customs.

(b) transact business in the customs station either personally or through an employee duly approved by the Assistant Collector of Customs, designated by the Collector.

(c) not represent a client before an officer of Customs in any matter to which he, as officer of the Department of Customs gave personal consideration or as to the facts of which he gained knowledge, while in Government Service.

(d) advise his client to comply with the provisions of the Act and in case of non-compliance shall bring the matter to the notice of Assistant Collector of Customs.

(e) exercise due diligence to ascertain the correctness of any information which he impart to a client with reference to any work related to clearance of cargo or baggage ;

(f) not withhold information relating to clearance of cargo or baggage issued by the Collector of Customs from a client who is entitled to such information.

(g) promptly pay over to the Government, when due, sums received for payment of any duty, tax or other debit or obligations owing to the Government and promptly account to his client for funds received for him from the Government or received from him in excess of Governmental or other charges payable in respect of the clearance of cargo or baggage on behalf of the client ;

(h) not procure or attempt to procure directly or indirectly information from the Governments record or other Government sources of any kind to which access is not granted by proper officer ;

(i) Not attempt to influence the conduct of any official of the Customs station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour of other thing of value.

(j) not refuse access to conceal, remove or destroy the whole or any part of any book paper or other record, relating to his transactions as a Custom House Agent which is sought or may be sought by the Collector.

(k) maintain records and accounts in such form and manner as may be directed from time to time by an Assistant Collector of Customs and submit them for inspection to the said Assistant Collector of Customs or an officer authorised by him whenever required ;

(l) ensure that all documents prepared or presented by him or on his behalf are strictly in accordance with order relating thereto ;

(m) ensure that all documents, such as bills of entry and shipping bills, delivered in the customs station by him show the name of the importer or exporter, as the case may be, and the name of Custom House Agent prominently at the top of such documents ;

(n) in the event of the licence granted to him being lost immediately report the fact to the Collector ; and

(o) ensure that he discharges his duties as Custom House Agent with utmost speed and efficiency and without avoidable delay ;

(p) not charge for his services as Custom House Agent in excess of the rates approved by the Collector from time to time under regulation 25.

15. *Change in directors of company etc.*—In case a company holding a licence under regulation 10 undergoes any change in the directors, managing director or managers, such change shall be forthwith communicated by such licensee to the Collector.

16. *Change in constitution of a firm*—(1) In the case of any firm being a licensee any change in the constitution thereof shall be reported to the Collector as early as possible and any such firm indicating such change shall make fresh application to the said Collector within thirty days for the grant of licence under regulation 5 or regulation 10 as the case may be. On scrutiny of such applications the Collector may grant to the firm a fresh licence of the category held by the applicant prior to the change in the constitution, if there is nothing adverse against him ;

Provided that the existing firm if it moves an application to that effect, may be allowed to carry on the business of Custom House Agent till such time as a decision is taken on the fresh application of the firm.

(2) Where a licence granted or renewed under these regulations in favour of a firm ceases to be in force because of the death of a partner and the partnership deed provides that the firm will continue with the surviving partners, with or without the legal heir of the deceased who has been employed under regulation 20, a licence may be granted to such firm, if there is nothing adverse against the firm or its partners.

(3) When a firm to which licence has been granted or renewed under these regulations requests change in the constitution thereof for taking as partner a person who has been employed under regulation 20 in the firm or concern for a period of not less than five years immediately preceding the date of such request, such change may be approved by the Collector if there is nothing adverse against such person.

17. *Change in the constitution of a concern.*—Where a licence granted or renewed under these regulations in favour of a person has ceased to be in force because of the death of that person, his legal heir who has been assisting in the work of clearance of goods through the Customs and employed as such under regulation 20 may be granted a licence if there is nothing adverse against him and if he passed the examination under regulation 9.

18. *Change in personnel actually engaged in Customs station on behalf of the firm or company.*—

Any change in the personnel actually engaged in the work in the customs station on behalf of that firm or company shall be communicated forthwith by the firm or the company as the case may be, to the Assistant Collector of Customs and no new person shall be allowed to work in the Customs Station as a duly authorised employee on behalf of that firm or company, unless he has passed the examination referred to in Regulation 9.

19. *Maintenance and inspection of accounts.*—(1) A licensee required to maintain accounts under these regulation shall maintain such accounts :—

(a) in an orderly and itemised manner and keep them current ;

(b) reflect all financial transactions as Customs House Agent—

(2) He shall keep and maintain on file a copy of each of the documents such as bill of entry, shipping bill, transshipment application etc. and copies of all his correspondence and other papers relating to his business as Customs House Agent.

(3) All records and accounts required to be maintained under these Regulations shall be preserved for at least five years and shall be made available at any time for inspection of officers authorised to inspect such records and accounts.

20. *Employment of persons.*—(1) A licensee may, having regard to the value of business transacted by him, employ one or more persons to assist him in his work as Customs House Agent.

(2) Appointment of a person referred to in sub-regulation (1) shall be made only after obtaining the approval of the Assistant Collector of Customs designated by the Collector for this purpose and in the matter of granting approval, he shall take into consideration the antecedents and any other information pertaining to the character of such person.

(3) Appointment of a person referred to in sub-regulation (1) shall be subject to the condition that he shall within six months from the date of his appointment, pass an examination conducted by the said Assistant Collector of Customs or by a Committee of officers of Customs to be appointed by him for the purpose, and the examination shall such be as to ascertain the adequency of knowledge of such person regarding the provisions of the statutes subject to which goods and baggage are cleared through the Customs.

Provided that where any person fails to pass the examination within the period referred to in sub-regulation (3), the Assistant Collector of Customs may, by order in writing, permit such person, to appear again for the examination but no such order shall be made in favour of a person who had been given the opportunity to appear for the examination four times.

(4) Notwithstanding anything contained in sub-regulation (3), a person who has worked under a Custom House Agent and passed the examination referred to in sub-regulation (3), may on his appointment under any other Custom House Agent with the approval of the Assistant Collector of Customs, be exempted from passing the examination again.

(5) Where the Customs House Agent has authorised any person employed by him to sign documents relating to the business of such agent on his behalf, he shall file with the Assistant Collector of Customs a written

authority in this behalf and give prompt notice in writing, is such authorisation is modified or withdrawn.

(6) The Assistant Collector of Customs shall issue an identity card to every employee of a Custom House Agent :—

(i) in form G in case he has passed the examination referred to in sub-regulation (3) ;

(ii) in Form H, in case he has not passed such examination.

(iii) and every such person shall, at all times when he transacts the work at the Custom station, carry such card with him and produce it for re-inspection on demand by any officer of the Customs station.

(7) The Custom House Agent shall exercise and supervision as may be necessary to ensure the conduct of any such employee in the transaction of business as agent and be held responsible for all acts or omissions of his employees in regard to their employment.

21. *Suspension or revocation of licence.*—(1) The Collector may, subject to the provisions of regulation 23, suspend or revoke the licence of a Custom House Agent so far as the jurisdiction of the Collector is concerned and also order for forfeiture of security on any of the following Grounds :—

(a) failure of the Customs House Agent to comply with any of the conditions of the bond executed by him under regulation 11.

(b) failure of the Customs House Agent to comply with any of the provisions of these regulations, whether within the jurisdiction of the said Collector or anywhere else ;

(c) any misconduct on his part whether within the jurisdiction of the said Collector or anywhere else which in the opinion of the Collector renders him unfit to transact any business in the customs station.

(2) Notwithstanding anything contained in sub-regulation (1), the Collector may, in appropriate cases, where immediate action is necessary, suspend the licence of a Customs House Agent where an enquiry against such agent is pending or contemplated.

22. *Prohibition.*—Notwithstanding anything contained in regulation 21, the Collector may prohibit any Customs House Agent from working in one or more sections of the customs station, if he is satisfied that such agent has not fulfilled his obligations as laid down under regulation 14 in relation to work in that section or sections.

23. *Procedure for suspending or revoking licence under regulation 21.*—

(1) The Collector shall issue a notice in writing to the Customs House Agent stating the grounds on which it is proposed to suspend or revoke the licence and requiring the said agent to submit with such time as may be specified in the notice not being less than forty-five days, to the Assistant Collector of Custom nominated by him, a written statement of defence and also to specify in the said statement whether the Customs House Agent desires to be heard in person by the said Assistant Collector of Customs.

(2) On receipt of the written statement from the Customs House Agent, or where no such statement has been received within the time limit specified in the notice referred to in sub-regulation (1), the Assistant Collector of Custom may inquire into such of the grounds as are not admitted.

(3) The Assistant Collector of Customs shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings and he may also put any person tendering evidence, for or against the Customs House Agent, for the purpose of ascertaining the correct position.

(4) The Customs House Agent shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings and where the Assistant Collector of Customs declines to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) At the conclusion of the aforesaid inquiry the Assistant Collector of Customs shall prepare a report of the inquiry recording his findings.

(6) The Collector of Customs shall furnish to the Customs House Agent a copy of the report of the Assistant Collector of Customs and shall require the Customs House Agent to submit within the specified period not being less than sixty days any representation that he may wish to make against the findings of the Assistant Collector of Customs.

(7) The Collector shall, after considering the report of the inquiry, and the representation thereon, if any, made by the Customs House Agent pass such orders as he deems fit.

24. *Grant of licence no right to accommodation.*—The grant of a licence under these regulations does not confer any right to accommodation in a customs station.

25. *Fixing of clearance charge.*—(1) The Collector may from time to time and in consultation with the recognised Customs House Agents Association, if any, registered at a Customs Station, notify the rates that may be charged by a Customs House Agent for his services rendered in relation to clearance of goods and conveyance through Customs. The Customs House Agent shall strictly conform to the rates so notified.

(2) Each Customs House Agent shall exalt him self as a member of the Customs House Agents Association if there is one registered in the customs station, and recognised by the Collector of Customs.

26. *Repeal.*—(1) The Customs House Agents Licensing Regulations, 1965 are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the Customs House Agents Licensing Regulations, 1965 shall be deemed to have been done or taken under the corresponding provisions of these regulations.

FORM—'A'

[See Regulation 5]

**Application Form for Grant of Customs House Agents Licence under
Section 146 of the Customs Act, 1962.**

1. Name of the applicant. (In case the applicant is a firm or a company, the name of each of the partners of the firm or the Directors of the company as the case may be).

2. Full address of the applicant (In case the applicant is a firm or a company the full address of each of the partners of the firm or the directors of the company as the case may be).

3. In case the applicant is a firm or a company, the name(s) of its partner/partners or director/directors or duly authorised employees who will actually be engaged in the work as Custom House Agents.

4. In case it is desired to appoint clerk(s) the name and address of the clerk(s).

5. Educational qualifications of each of the persons, who will actually be engaged in the work as Custom House Agent.

6. Particulars regarding knowledge of English and local language and Hindi. (These particulars are required in respect of each of the persons actually engaged in the work as Custom House Agent).

7. Particulars regarding knowledge of Custom Law and Procedure. (These particulars are required in respect of each of the persons actually engaged in the work as Custom House Agent).

8. Whether the applicant had earlier applied for a licence to act as a Custom House Agent and whether such application was rejected.

9. Whether he or the firm or company by whom he is employed have earlier held a Custom House Agent Licence under these regulations and whether it was cancelled or suspended.

10. Whether the applicant or any of the persons proposed to be employed by him have been penalised, convicted or prosecuted under any of provisions of the Customs Act, 1962 or any other law for the time being in force.

11. Number and date of each of the documents furnished in accordance with regulation 6.

I/We hereby affirm that I/we have read the Custom House Agents Licensing Regulations, 1984 and agree to abide by them.

Date

Signature of applicant (s)

FORM—B

[See Regulation 8]

Temporary Licence to Operate as a Custom House Agent

Shri/Sarvshri _____ is/are hereby authorised to transact business as Custom House Agent at the _____ Custom House. This licence will be valid for one year from the date of its issue.

It is condition of this licence that in the case of a firm or a company, the Custom House work shall be transacted through one of the following persons :—

Name of persons

Specimen Signature

- (1)
 (2)
 (3)
 (4)
 (5)

Customs Station

Date of issue.

Signature of the
Collector of Customs.

FORM—C

[See Regulation 10]

(REGUCAE LICENCE)

**Application Form for Grant of Custom House Agents Licence Under
Section 146 of the Customs Act, 1962.**

1. Name of the applicant (In case the applicant is a firm or a company, the name of each of the partners of the firm or the directors of the company as the case may be).

2. Full address of the applicant. (In case the applicant is a firm or a company the full address of each of the partners of the firm or the directors of the company as the case may be).

3. In case the applicant is a firm or a company the name(s) of its partner/partners or director/directors orduly authorised employees who actually been engaged in the work of Custom House Agents.

4. In case it is desired to appoint clerk(s) the name and address of will the clerk(s) as the case may be.

5. Educational qualifications of each of the persons, who will actually be engaged in the work as Custom House Agent.

6. Particulars regarding knowledge of English and local language Hindi. (These particulars are required in respect of each of the persons actually engaged in the work of Custom House Agent).

7. Particulars regarding knowledge of Custom law and procedure (These particulars are required in respect of each of the persons actually engaged in the work of Custom House Agent).

8. Particulars of the quantity or value of cargo cleared during the currency of the temporary licence in accordance with the Regulation 10.

9. Whether the applicant had earlier applied for a licence to act as a Custom House Agent whether such application was rejected.

10. Whether he or the firm or company by whom he is employed have earlier held a Custom House Agents Licence under these regulations and whether it was cancelled or suspended.

11. Whether the applicant or any of the persons proposed to be employed by him have been penalised convicted of prosecuted under any of the provisions of the Customs Act, 1962 or any other law for the time being inforce.

12. Number and date of each of the documents furnished in accordance with regulation 6.

I/we hereby affirm that I/we have read the Custom House Agents Licensing Regulation 1984 and agree to abide by them.

Signature of applicant (s)

1.
2.

Date.

FORM—D

[See Regulation 10]

Regular Licence to Act as Customs House Agent

Shri/sarvshri ————— is/are hereby authorised to transact business as Customs House Agent at any Customs Station. This licence will be valid for three years from the date of its issue.

It is a condition of this licence that in the case of a firm or a company the Custom house work shall be transacted through one of the following persons :—

Name of persons

Specimen Signature

1. _____

2. _____

3. _____

4. _____

5. _____

Customs Station

Date of issue.

Signature and seal of
the collector of customs.

FORM—E

[See Regulation 11]

BOND

No. _____ of _____ 19____

know all man by these presents that we are held and firmly bound to the President of India in the sum of Rs. _____ for payment whereof we hereby bind ourselves and each of us bind himself and each of our heirs executors and administrators firmly by these presents dated this _____ day of _____ in the year one thousand nine hundred and _____.

Whereas the said _____ has been authorised to act as a Custom House Agent under Section 146 of the Customs Act, 1962 (52 of 1962) and the said _____ has agreed to enter into this bond as required by the Customs House Agent Licensing Regulations, 1984 (hereinafter referred to as the said Regulation)

And whereas the said _____ has deposited the sum of Rs. _____ with the President of India as security for his faithful behaviour and that of his clerks as regards the said Regulations.

Now the condition of the above written bond is such that if the said _____ and his clerks do at all times whilst holding such licence as aforesaid behave themselves in faithful manner as regards the said Regulations and if the said _____ and their executors or administrators do at all times make goods to the President of India all and every sums of money which being due to the Government shall by reason of the misfeasance or negligence of the said _____ or of his clerks have not been paid to the President of India then the above written bond shall be void ; otherwise the same shall be and remain in full force and virtue and it is hereby agreed and declared that the President of India may apply the said sum of Rs. _____ deposited as aforesaid in making good to the President of India all and every sums due to the Government by reason of the misfeasance or negligence of the said _____ or his clerks as aforesaid.

And it is hereby agreed that the sum of Rs. _____ shall remain with the President of India for twelve calendar months after the date upon which the said _____ shall cease to act as a Custom House Agent as security for the payment of any sums due to the Government by reason of any misfeasance or negligence of the said _____ or the his clerks which may not be discovered until after the said date and that this bond shall be and remain in full force and virtue until the expiration of the said term of twelve months. It is also agreed and declared that the President of India may apply the above sum of Rs. _____ in making good wholly or in part any short collection of duty or other charges in res-

pect of any transaction made by the said _____ on behalf of importers or exporters in the event of such sums remaining unpaid, even after issue of demands under section 28 of the Customs Act.

Signed, sealed and delivered by the above named in the presence of witnesses.

Accepted for and on behalf
of the President of India.

1. _____
2. _____

Signature and Designation
of the Collector of Customs.

FORM—F
Surety Bond

No. _____ of _____ 19____
know all men by these presents that we _____ (A)
and _____ (B) _____ are held and firmly
bound to the President of India in the sum of Rupees _____ for
payment whereof we hereby bind himself our and each of our heirs, execu-
tors and administrators firmly by these presents dated the _____
day of _____ in the year one thousand nine hundred and _____

Whereas the said _____ (A) _____ has
been authorised to act as a Custom House Agent under section 146 of the
Customs Act, 1962 (52 of 1962) and the said _____ (B) _____
has agreed to enter into this bond as required rules made under the said
section ;

Now the condition of the above written bond is such that if the said
_____ (A) _____ doth at all times whilst holding such
authorisation as aforesaid behave himself in a faithful and incorrupt manner
as regard the Custom House Regulations and the officers, and if the said
(A) and
(B) _____ their executors or administrators some or one of them
do, and shall at all time make good to the President of India all and every
sums of money which being due to the Government shall by reasons of the
misfeasance or negligence of the said _____ (A) have not been
paid to the President of India then the above written bond shall be void ;
otherwise the same shall remain in full force and virtue ;

Signed, sealed and delivered by the above named in the presence of
witnesses.

1. _____
2. _____

Executed before me this _____ 19____
Signature and Designation of the Collector
of Customs.

FORM G
Identity Card

Shri _____ of &
having been registered in the books of this office as a clerk of Shri/Sarvshri
_____ of _____ having been authorised
by him/them to transact business at the _____ Custom House
on his/their behalf, is hereby permitted to do so far a period of _____
years with effect from _____ 19____, or until the

cancellation of the licence issued to his principal whichever is earlier.
Specimen Signature of _____

Clerks _____

Age _____

Custom Station _____

_____ 19 _____

(Photo to be supplied
by the Agent).

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii), No. 569,
dated November 21, 1984

MINISTRY OF HOME AFFAIRS

S. O. 869(E).—(*New Delhi, the 21st November, 1984*).—In exercise of the powers conferred by sub-section (2) of section 1 of the **Foreign Contribution (Regulation) Amendment Ordinance, 1984** (12 of 1984) the Central Government hereby appoints 1st January, 1985 as the date on which sections 4 and 6 of the Ordinance shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 549, dated 14th November, 1984.

MINISTRY OF FINANCE

S. O. 837(E).—(*New Delhi, the 14th November, 1984*).—In exercise of the powers conferred by sub-section (3) of section 1 of the **Chit Funds Act, 1982** (40 of 1982), the Central Government hereby appoints the 6th day of November, 1984 as the date on which the provisions of the said Act shall come into force in the State of Sikkim.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 478, dated November 12, 1984.

MINISTRY OF WORKS & HOUSING

S. O. 761(E).—(*New Delhi, the 12th November, 1984*).—In pursuance of sub-section (2) of section 1 of the **Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1984** (35 of 1984), the Central Government hereby appoints the date of publication of this notification in the *Gazette of India*, as the date on which all the provisions of this Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 453, dated November 23, 1984.

MINISTRY OF FINANCE

G. S. R. 791(E).—(*New Delhi, the 23rd November, 1984*).—In exercise of the powers conferred by section 37 of the **Central Excise and Salt Act, 1944** (1 of 1944), the Central Government hereby makes the following rules further to amend the **Central Excise Rules, 1944**, namely :—

1. (1) These rules may be called the **Central Excise (11th Amendment) Rules, 1984**

(2) They shall come into force on the date of their publication in the *Official Gazette*.

2. In the **Central Excise Rules, 1944**, in rule 2, in clause (iia),—

(a) in sub-clause (a), items (ii), (iii) and (iv) shall be omitted.

(b) in clause (c), after item (vii), the following items shall be inserted, namely :—

- “(viii) the Collector of Central Excise, Ahmedabad.
(ix) the Collector of Central Excise, Vadodara ;
(x) the Collector of Central Excise, Rajkot.”

Published in the *Gazette of India*, (Ext.), Part II, Section 3 (ii),
No. 529, dated November 7, 1984.

MINISTRY OF FINANCE

S. O. 824(E).—(*New Delhi, the 7th November, 1984*).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (63 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1963, namely :—

1. (1) These rules may be called the **Income-tax (Fourth Amendment) Rules, 1984**.

(2) They shall come into force on the 1st day of April, 1985.

2. In the Income-tax Rules, 1962, in rule 90,—

(i) in clause (a), for the word “one-fourth” the word “one-third” shall be substituted.

(ii) in clause (b), for the word “one third”, the word “one-half” shall be substituted.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 379, dated 7th August, 1984

MINISTRY OF EDUCATION & CULTURE

S. O. 584(E).—(*New Delhi, the 7th August, 1984*).—In exercise of the powers conferred by sub-section (2) of section 1 of the **Vishva-Bharti (Amendment) Act, 1984** (31 of 1984) the Central Government hereby appoints the 8th day of August, 1984 as the date on which the said Act shall come into force.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 484, dated 13th August, 1984.

MINISTRY OF COMMERCE

S. O. 594(E).—(*New Delhi, the 2nd July, 1984*).—In exercise of the powers conferred by sub-section (2) of the **Export (Quality Control and Inspection) Amendment Act, 1984** (40 of 1984) the Central Government hereby appoint the 2nd July, 1984, as the date on which the said Act shall come into force.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(i),
No. 389, dated 13th August, 1984.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

S. O. 599(E).—(*New Delhi, the 13th August, 1984*).—In pursuance of the notification of the Government of India, in the Ministry of Home Affairs No S. O. 479(E), dated the 16th October, 1982, the Central Government hereby appoint the 1st day of September, 1984, as the date on which the **Code of Civil Procedure, 1908** (5 of 1908) shall come into force in the State of Sikkim.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 395, dated August 18, 1984

MINISTRY OF LABOUR AND REHABILITATION

S. O. 605 (E).—(*New Delhi, the 18th August, 1984*).—In exercise of the powers conferred by sub-section (ii) of section 1 of the **Industrial Disputes Amendment Act, 1984** (49 of 1984) the Central Government appoints the 18th day of August, 1984 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 396, dated 21st August, 1984.

MINISTRY OF LABOUR AND REHABILITATION

S. O. 606(E).—(*New Delhi, the 21st August, 1984*).—In exercise of powers conferred by sub-section (2) of section 1 of the **Industrial Disputes (Amendment) Act, 1982** (46 of 1982), the Central Government hereby appoints the 21st day of August, 1984 as the date on which clauses (a), (b) and (d) to (k) of section 2 and sections 3, 4, 5, 6, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21 and 23 of the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (ii),
No. 402, dated 22nd August, 1984

MINISTRY OF INFORMATION AND BROADCASTING

No. S.O. 612(E).—(*New Delhi, the 22nd July, 1984*).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. 529(E) dated 22nd July, 1983, the Central Government hereby appoints the date of publication of this notification as the date of commencement of the **Press and Registration of Books Act, 1867** to the State of Sikkim in so far as it relates to newspapers.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 415, dated 30 August, 1984

MINISTRY OF FINANCE

S.O. 659(E).—(*New Delhi, the 31st August, 1984*).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. No. 529(E), dated the 22nd July, 1983 the Central Government hereby appoints the 1st day of September, 1984, as the date on which the **Bankers Book Evidence Act, 1891** (18 of 1891) shall come into force in the State of Sikkim.

S. O. 660(E).—In exercise of the powers conferred by sub-section (3) of section 1 of the **Chit Funds Act, 1982** (40 of 1982), the Central Government hereby appoints the 3rd day of September, 1984 as the date on which the provisions of the said Act shall come into force in the Union Territory of Dadra and Nagar Haveli.

S. O. 661(E).—In exercise of the powers conferred by sub-section (3) of section 1 of the **Chit Funds Act, 1982** (40 of 1982), the Central Government hereby appoints the 3rd day of September, 1984 as the date on which the provisions of the said Act shall come into force in the Union Territory of Lakshadweep.

Published in the *Gazette of India* (Ext.), Part II, Section 3(ii),
No. 419, dated 31st August, 1984.

MINISTRY OF COMMERCE

S. O. 665(E)—(*New Delhi, the 31st August, 1984*).—In exercise of the powers conferred by sub-section (3) of section 1 of the **Tobacco Board Act, 1975** (4 of 1975) the Central Government hereby appoints the 1st day of September, 1984, as the date on which section 13 of the said Act shall come into force in the State of Karnataka.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 444, dated 12th September, 1984

MINISTRY OF COMMERCE

S O 699(E)—In exercise of the powers conferred by sections of the **Imports and Exports (Control) Act, 1947** (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely :—

1. This Order may be called the **Exports (Control) Eleventh Amendment Order, 1984**.

2. In the Export (Control) Order, 1977, in Part 'A' Schedule I, the existing entry appearing against S. No. 56(ii) shall be substituted by the following :—

“(ii). Rough (uncut and unset) precious stones and rock crystal quartz.”

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 453, dated September 15, 1984.

MINISTRY OF SOCIAL WELFARE

S. O. 713(E).—(*New Delhi, the 15th September, 1984*).—In pursuance of the Notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E), dated the 22nd July, 1983, the Central Government hereby appoints the 15th September, 1984, as the date on which the **Suppression of Immoral Traffic in Women and Girls Act, 1956** (Act No. 104 of 1956) shall come into force in the State of Sikkim.

Published in the *Gazette of India*, (Ext.) Part II, Section 3(ii),
No. 455 dated September 17, 1984.

MINISTRY OF ENERGY

S. O. 718(E).—(*New Delhi, the 17th September, 1984*).—In exercise of the powers conferred by sub-section 1. of the **Electricity (Supply) Amendment Act, 1984** (48 of 1984), the Central Government hereby appoints the 1st day of October, 1984 as the date on which the said Act shall come into force.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 458, dated 18th September, 1984

MINISTRY OF COMMERCE

S. O. 721(E).—(*New Delhi, the 18th September, 1984*).—In exercise of the powers conferred by sub-section 1 of the **Tobacco Cess Act, 1975** (26 of 1975) the Central Government hereby appoints the date on which this

notification is published in the Official Gazette, as the date on which section 3 of the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 373, New Delhi the 21st September, 1984.

MINISTRY OF INFORMATION & BROADCASTING

G.S.R. 676 (E).—(*New Delhi, the 21st September, 1984*)—In exercise of the powers conferred by sub-section (3) of section 1 of the **Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 (50 of 1981)**, the Central Government hereby appoints the 1st day of October, 1984, as the date on which the said Act, shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 394, dated 1st October, 1984

MINISTRY OF AGRICULTURE.

G. S. R. 707 (E).—(*New Delhi, the 1st October, 1984*).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby amends clause 3 of the Fertiliser (Movement Control) Order, 1973 with immediate effect, as follows namely :—

1. (1) This order may be called the **Fertiliser (Movement Control) Amendment Order, 1984**.

(2) It shall come into force on the date of its publication in the official Gazette.

2. After the proviso to clause 3 of the said order, the following proviso shall be added :—

“Provided further that export of physical and granulated mixtures of fertilisers from one State to another shall be subject to an authorisation allowing entry of the material in the State to which it is being exported, by the Director of Agriculture or such other officer authorised by the said State Government in this behalf”.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i)
No. 398, dated 8th October, 1984.

MINISTRY OF EDUCATION AND AGRICULTURE

G. S. R. 712 (E).—(*New Delhi, the 8th October, 1984*).—In exercise of the powers conferred by sub-section 1 of the **Copyright (Amendment) Act, 1984 (65 of 1984)**, the Central Government hereby appoints the 8th day of October, 1984 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i), No.
423. dated 27th October, 1984.

MINISTRY OF HEALTH & FAMILY WELFARE

G. S. R.-744 (E).—(*New Delhi, the 27th October, 1984*).—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955 were published as required by sub-section (1) of section 23 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), with the notification of Government of India in the Ministry of Health and Family Welfare (Department of Health) No. G. S. R. 703(E), dated the 14th September, 1983, in the Gazette of India, Extraordinary Part II, Section 3, pages 1-4,

inviting objections and suggestions from all persons likely to be affected thereby before the expiry of ninety days from the date on which copies of the Gazette of India in which the said notification was published were made available to the public ;

And whereas the copies of the said notification were made available to the public on 14th September, 1983 ;

And whereas the objections and suggestions received from the public on the draft rules have been considered by the Central Government.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government, after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955 namely :—

RULES

1. (1) These rules may be called the **Prevention of Food Adulteration (Second Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the official Gazette.

2 In the Prevention of Food Adulteration Rules, 1955, in Appendix B, in clause (v) of item A. 19 for the expression "37C" the expression "41C" shall be substituted".

Published in the *Gazette of India*, (Ext.), Part II, Section 3(i),
No. 346, dated August 31, 1984

CENTRAL BOARD OF EXCISE AND CUSTOMS

G. S. R. 639 (E).—(*New Delhi, the 31st August, 1984*).—In exercise of the powers conferred by section 157, read with sub-section (3) of section 54 and section 158 of the Customs Act, 1962 (52 of 1962) and in supersession of the Transshipment (Conditions) Regulations, 1963, Imported Goods (Transshipment by Air) Regulations, 1963, and the Imported Goods (Transshipment by Rail) Regulations, 1981, the Central Board of Excise and Customs hereby makes the following regulations, namely :—

1. *Short title and commencement.*—(1) These regulations may be called the **Imported Goods (Conditions of Transshipment) Regulations, 1984.**

(2) They shall come into force on the date of their publication in the official Gazette.

2. *Application.*—These regulations shall apply to the transshipment of imported goods other than goods :—

(a) imported by post, or

(b) transhipped by foreign going aircrafts.

3. *Conditions governing transshipment.*—No transshipment shall be allowed under these regulations ;—

(a) except by rail, a vessel or an aircraft or by any propelled vehicle, used or capable of being used for the purpose of road transport (hereinafter referred to as the motor vehicle) ;

(b) by any motor vehicle unless the Collector, on a separate application made in this behalf by owner of the motor vehicle, by order in writing, permits transshipment by the motor vehicle ;

Provided that the said Collector shall, in considering an application for such permission, have regard to the following matters, namely :—

(i) non-availability of alternate means of transshipment ;

- (ii) the nature of the imported goods to be transhipped ;
- (iii) Government revenue involved ;
- (iv) any other relevant circumstances ;

Provided further that the Collector shall, before refusing any such application for permission, give a reasonable opportunity of being heard to the applicant ;

(c) unless manifest relating to the imported goods shows that the same are for transhipment ;

(d) unless the Railways, or the owner of the vessel or its steamer-agent, or the owner of the aircraft or, as the case may be, the owner of the motor vehicle ;—

(i) executes a bond in such form and with or without surety or security or both as the Collector may specify for completion of transhipment of the imported goods, if the Collector, having regard to the nature of the imported goods, means of transhipment, Government revenue involved and any other relevant circumstances, considers execution of such bond necessary ;

(ii) undertakes in writing to produce to the proper officer, within three months or within such extended period as that proper officer may allow, a certificate issued by the proper officer at the custom's station situated at or nearest to the place of destination specified in the manifest that the imported goods have been produced at that station.

4. *Terms of the bond to be executed*—The terms of the bond shall be that if the person executing the bond produces to the proper officer within three months or within such extended period as such officer may allow, a certificate issued by the proper officer at the customs station specified in the said bond and situated at or nearest to the place of destination that the imported goods have been produced at that station, the bond shall stand discharged ; but otherwise an amount equal to the value or, as the case may be, the market-price of the imported goods in respect of which the said certificate is not produced shall stand forfeited.

5. *General bond*.—Notwithstanding anything contained in these regulations, the Collector may permit the Railways, or the owner of the vessel or its steamer agent or the owner of the aircraft or, as case may be, the owner of the motor vehicle, to enter into a general bond in such form and with such surety or security or both as the Collector may deem fit in respect of the transhipment of the imported goods effected by the Railways or the said owners or, as the case may be, the said steamer-agent or on behalf of the Railways or such owners or steamer-agent.

6. *Imported goods transhipped to be sealed*.—(1) Before the imported goods are transhipped, the proper officer shall :—

(a) in the case of transhipment by rail, seal the containers with the Customs Department's seal in the presence of an accredited representative of the Railways or the steamer-agent, as the case may be ;

(b) in the case of transhipment by an aircraft or a motor vehicle, place all small packages containing the imported goods in durable bags and seal the bags with the Customs Department's seal in the presence of an accredited representative of owner of the aircraft or the motor vehicle, as the case may be.

(2) The materials and the bags required for sealing the containers or bags under sub-regulation (1) shall be provided by, and at the cost of,

the Railways or the owner of the aircraft or as the case may be, the owner of the motor vehicle.

7. *Payment of fees.*—A fee of five rupees in respect of each application for transhipment of the imported goods shall be charge at all customs stations.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 317, dated 10th August, 1984

MINISTRY OF EDUCATION AND CULTURE

G. S. R. 602(E).—(*New Delhi, the 9th August, 1984*).—In exercise of the powers conferred by sub-section (2) of section 1 of the **Copyright (Amendment) Act, 1983** (No. 23 of 1983), the Central Government hereby appoints the 9th day of August, 1984 as the date on which the said Act shall come into force.

G. S. R. 602(E).—In exercise of the powers conferred by Section 78 of the Copyright Act, 1957 (14 of 1957), the Central Government hereby makes the following rules to amend the Copyright Rules, 1958, namely :—

1. *Short title and commencement.*—(1) These rules may be called the **Copyright Amendment Rules, 1984**.

(2) They shall come into force on the date on which the Copyright (Amendment) Act, 1983 shall come into force.

2. In the Copyright Rules, 1958 (hereinafter referred to as the principal rules), after rule 11, the following shall be inserted, namely :—

“CHAPTER IV A

Compulsory licence for publication of unpublished works, translation and reproduction of work

11A. *Application for licence*—A application for a licence under section 31A, sub-section (1A) of section 32 and section 32A to publish any unpublished work or to translate any work in any language or to reproduce any published work shall be made in triplicate in accordance with Form IIA and shall be accompanied by the fee prescribed in the Second Schedule.

11B. Every such application shall be in respect of one work only and in respect of translation of a work into one language only.

11C. *Notice of application.*—(1) An copy of such application shall be served by registered mail on the owner of copyright and if the owner of such copyright is not known or is not traceable, a copy of the application shall be served on the publisher whose name appears on the work.

(2) The Copyright Board shall give an opportunity to the applicant and also, wherever practicable, to any person claiming any interest in the copyright of the work, to be heard and may take such evidence in respect of the application as it thinks fit.

(3) If more than one application for translation of the work in the same language or for reproduction of the work or for publication of any unpublished work is pending before the Copyright Board, all such application shall be considered together.

(4) If the Copyright Board is satisfied that the licence for a translation of the work in the language or for reproduction of the work or for publication of unpublished work, applied for may be granted to the applicant, or if there are more applicant than one, to such one of the applicants as in the opinion of the Copyright Board, would best serve the interest of the general public, it shall grant a licence accordingly.

(5) Every such licence shall be subject to the conditions provided in sub-section (7) of section 31A, clause (i) of sub-section (4) of section 32 and clause (i) of sub-section (4) of section 32A relating to payment of royalties and shall specify :—

- (a) the period within which such work shall be published ;
- (b) the rate at which royalties in respect of the copies of such work sold to the public shall be paid to the owner of the copyright in the work ;
- (c) in a case of translation of the work, the language in which the translation shall be produced and published ; and

(d) the person or persons to whom such royalties shall be payable.

(6) The grant of every such licence shall, as soon as possible, be notified in the Official Gazette and a copy of the licence shall be sent to the other parties concerned.

11D. Manner of determining royalties.—The Copyright Board shall determine the royalties payable to the owner of the copyright under sub-section (7) of section 31A, clause (i) of sub-section (4) of section 32 and clause (i) of sub-section (4) of section 32A after taking into consideration :

- (a) the proposed retail price of a copy of such work ;
- (b) the prevailing standards of royalties in regard to such works ;
- (c) such other matters as may be considered relevant by the Copyright Board.

11E. Extension of the period of licence.—The Copyright Board may, on the application of the licensee and after notice to the owner of the copyright, wherever practicable, if it is satisfied that the licensee was for sufficient reasons unable to produce and publish the translation or reproduce the work or publish the unpublished work within the period specified in the licence, extend such period.

11F. Cancellation of licence.—The Copyright Board may, after giving the licensee an opportunity of being heard, cancel the licence on any of the following grounds, namely :—

- (a) that the licensee has failed to produce and publish such work within the time specified in the licence or within the time specified in the licence or within the time extended on the application of the licensee ;
- (b) that the licence was obtained by fraud or misrepresentation as to any essential fact ;
- (c) that the licensee has contravened any of the terms and conditions of the licence.

11G. Notice for termination of licence.—Notice for termination of licence under proviso to sub-section (1) or sub-section (2) of section 32B shall be served on the person holding the licence by the owner of copyright in Form IIB of the First Schedule to these rules.

3. In the principal rules, in the First Schedule (i) after Form II—Application for a licence for translation, the following shall be inserted, namely :—

“FORM IIA

Application for a licence for publication/translation/reproduction.

[See rule 11A]

(To be submitted in triplicate)

To

The Registrar of Copyrights,
Secretary, Copyright Board,
Copyright Office,
New Delhi.

Sir,

In accordance with section 31/32/32A of the Copyright (Amendment) Act, 1983 (23 of 1983), I hereby apply to the Copyright Board for a licence to publish an un-published Indian-work, or reproduce a published work or to translate a work in accordance with the particular are given in the enclosed Statement.

2. I hereby undertake to abide strictly by the terms and conditions of the licence, if granted to me.

3. I hereby verify that the particulars given in this form are true to the best of my knowledge, belief and information and nothing has been concealed therefrom.

Place :—

Date :—

Yours faithfully,
(Signature)

STATEMENT

1. Full name of the applicant.....
(In block letters)

2. Full address and nationality of the applicant.

3. Telegraphic address, if any :

4. Description of the work :

(a) Class of the work (Literary, Dramatic, Musical, Artistic, Cinematograph Film, Record).

(b) Title of the work.

(c) Full name, address and nationality of the author and if the author is deceased, the date of his decease.

(d) Language of the work.

*(e) Name, address and nationality of the publisher.

*(f) Year of first and last publication.

(g) Country of first and last publication.

(h) Price of a copy of the work.

(i) If the copyright in the work is registered under section 45, the Registration Number.

(If the work has appeared as a serial or otherwise in a journal or magazine, give the name of journal or magazine, the volume number of the issue, the date and the page reference).

5. If the licence is applied for translation state :

(a) Language into which the work is proposed to be translated.

(b) Full name, qualifications and address of the translator.

(c) Qualifications of the applicant to produce and publish the translation.

6. Indicate the purpose for which the licence is required.

7. Number of copies of work proposed to be published under the licence applied for.

8. Estimated cost of the work to be published.

9. Proposed retail price per copy of work.
10. Rate of royalty, which the applicant considers reasonable, to be paid to the copyright owner.
11. Means of the applicant for payment of the royalty.
12. Whether the prescribed fee has been paid and if so, particulars of payment (give Postal Order/Bank Draft/Treasury Challan Number).
13. (a) Full name, address and nationality of the person competent to issue a licence.
(b) Whether the applicant after due diligence on his part was unable to find the owner.
*(c) Whether the applicant has requested and has been denied authorisation by the said person to produce and publish the translation or reproduce the work or publish the unpublished work.
*(d) If the applicant was unable to find the owner whether he had sent a copy of the request by registered air mail post to the publisher whose name appears on the work. If so, the date on which the copy was sent.
*(Enclose true copies of correspondence, if any).
14. Whether the author of the work has withdrawn from circulation copies of the work.
15. In case of application for translation furnish following additional information :—
 - (a) Whether a translation in the same language has been published before.
 - (b) Whether the earlier translation is out of print.
 - (c) Full name, address and nationality of the earlier translator and if the said translator is deceased, the date of his decease.
 - (d) Title of the earlier translation.
 - (e) Full name, address and nationality of the publisher or the earlier translation.
 - (f) Year of publication.
 - (g) Price per copy of the earlier translation.
 - (h) If the earlier translation is registered under section 45, the Registration Number.
 - (i) Rate and amount of royalty paid to the copyright owner in respect of the earlier translation, if known.
16. (a) Whether translation has been made into any language other than the language stated in-5 above.
(b) Full name, address and nationality of the translator and if the said translator is deceased, the date of his decease.
(c) Title of the translation.
(d) Language of the translation.
(e) Full name, address and nationality of the publisher of the translation.
(f) Year of publication.
(g) Price per copy of the translation.
(h) If the translation is registered under section 45, the Registration Number.
(i) Rate and amount of royalty paid to the copyright owner, if known.
17. Remarks, if any.

18. List of enclosures.

Place:—

Date :—

(Signature)

FORM II B
(See Rule 11 G)

To

Sir,

In accordance with proviso to sub-section (1) or (2) of section 32B of the Copyright (Amendment) Act, 1983, I hereby give notice, that copies of translation/reproduction of the work given below (mention language) have been published by me/under my authorization.

Place :—

Date :—

Yours faithfully
(Signature)

STATEMENT

1. Title of the work.
2. Name and address of owner of copyright.
3. Year and country of first publication and name, address and nationality of the publisher.
4. Name and address of the author who has translated the work.
5. Name and address of the publisher and year in which the translation has been published in India.
6. Name and address of the publisher and year in which the reproduction of the work has been published in India.
7. Retail price of the published work.

(ii) in Form IV—Application for Registration of copyright after para 4, the following shall be inserted, namely :—

“4A. I hereby verify that the particulars given in this Form and the Statement of Particulars and Statement of further Particulars are true to the best of my knowledge, belief and information and nothing has been concealed therefrom”.

(iii) in Form IV—Application for Registration of copyright, under heading Statement of Particulars, after para 13, the following shall be inserted, namely :—

“13A. If the work is an “Artistic work”, whether it has been registered with the Trade Marks office under section 4 of the Trade and Merchandise Marks Act, 1958, and if not, whether any application for the registration of same work has been made in Trade Marks Office; (please enclose certificate from Trade Marks Office to this effect)”.

(iv) in Form V—Application for registration of changes in the particulars of copyright entered in the Register of Copyrights after para 4, the following shall be inserted, namely :—

“4A. I hereby verify that the particulars given in this form and the Statement of Particulars are true to the best of my knowledge, belief and nothing has been concealed therefrom”.

4. In the principal rules, for the Second Schedule, the following shall be substituted, namely :—

“SECOND SCHEDULE”

- | | |
|--|-------------------------------|
| 1. For a licence to republish a literary, Dramatic, Musical or Artistic Work (Section 31, 31A and 32A) | Rs. 100 per work |
| 2. For a licence to republish a cinematograph Film (Section 31) | Rs. 500 per work |
| 3. For a licence to republish a Record (Section 31) | Rs. 200 per work |
| 4. For a licence to perform an Indian work in public or to communicate the work to the public by broadcast (section 31) | Rs. 25 per work |
| 5. For an application for a licence to produce and publish a translation of a literary or Dramatic Work in any language (section 32 and 32 (1A)) | Rs. 100 per work |
| 6. For an application for registration of copyright in a— | |
| (a) Literary, Dramatic, Musical or Artistic Work. | Rs. 10 per work |
| (b) Provided that in respect of Literary or Artistic work which is used or capable of being used in relation to only goods (section 45) | Rs. 50 per work |
| 7. For an application for changes in particulars of copyright entered in the Register of Copyrights in respect of a : | |
| (a) Literary, Dramatic, Musical or Artistic Work. | Rs. 5 per work |
| (b) Provided that in respect of a Literary or Artistic Work which is used or capable of being used in relation to any goods (section 45). | Rs. 25 per work |
| 8. For an application for registration of copyright in a Cinematograph Film (section 45). | Rs. 200 per work |
| 9. For an application for registration of changes in particulars of copyright entered in the Register of Copyrights in respect of a Cinematograph Film (section 45). | Rs. 100 per work |
| 10. For an application for registration of copyright in a Record (section 45). | Rs. 50 per work |
| 11. For an application for registration of changes in particulars of copyright entered in the Register of Copyrights in respect of a Record (section 45). | Rs. 25 per work |
| 12. For taking extracts from the Register of Copyrights (section 47). | Rs. 5 per work
per hour |
| 13. For taking extracts from the Indexes (section 47). | Rs. 2.50 per work
per hour |

- | | |
|---|-------------------------------------|
| 14. For a certified copy of an extract from the Register of Copyrights of the Indexes (section 47). | Rs. 5 per work |
| 15. For a certified copy of any other public document in the custody of the Registrar of Copyrights or the Copyright Board. | Rs. 2.50 per work |
| 16. For an application for prevention of importation of infringing copies (section 53). | Rs. 25 per work per place of entry. |

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 301, dated 12th August, 1984.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

G. S. R. 854(E).—(*New Delhi, the 1st August, 1984*).—In exercise of the powers conferred by section 67 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby makes the following rules further to amend the Monopolies and Restrictive Trade Practices Rules, 1970 (hereinafter called “the said rules”), namely :—

1. *Short title and commencement.*—(1) These rules may be called the **Monopolies Restrictive Trade Practices (Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rules 2 of the said rules,—

(1) after clause (b), the following clause shall be inserted as clause (bb), namely :—

“(bb) “Director General” means the Director General of Investigation and Registration appointed under section 8 of the Act;”

(2) for clause (c), the following clause shall be substituted, namely :—

“(c) “principal officer” in relation to an undertaking means ;

(i) where the undertaking is owned by a body corporate—

(A) the managing director of the body corporate ; or

(B) any other director, manager or Secretary of the body corporate who has been authorised by the Board of Director of such body corporate by means of a resolution in that behalf ;

(ii) where the undertaking is owned by a firm, any partner thereof ;

(iii) where the undertaking is owned by a Hindu Undivided Family, the Karta or the manager of the family ;

(iv) where the undertaking is owned or controlled by an association of individuals, whether incorporated or not, the individual who has been specifically authorised in writing in this behalf ;

(v) where the undertaking is owned by an individual, the individual himself ;

(vi) where the undertaking is owned or controlled by a trust, the managing trustee or any other individual who is managing the trust ;

3. For the proviso to rule 3 of the said rules, the following shall be substituted, namely :—

“Provided that in respect of applications made under clause (d) of sub-section (3) of section 21, clause (d) of sub-section (3) of section 22, section

25 and section 26 of the Act, it shall be sufficient if such applications are accompanied by one original and six copies thereof."

4. In rule 5 of the said rules, for sub-rule (2), the following shall be substituted, namely :—

"(2) Every such notice shall be accompanied by a challan or a bank draft evidencing payment of a fee of rupees one thousand".

5. After rule 5 of the said rules, the following rule shall be inserted, namely :—

"5A. *Application under clause (d) of sub-section (3) of section 21.*—

(1) For obtaining the previous approval of the Central Government under clause (d) of sub-section (3) of section 21 of the Act, there shall be made an application in Form IB.

(2) The procedure laid down in sub-rule (2) and sub-rule (3) of rule 5 shall be applicable to an application referred to in sub-rule (1) of this rule

(3) The Central Government may, before passing any order on the application referred to in sub-rule (1), require the owner of the undertaking to furnish such additional information as that Government may consider necessary."

6. After rule 6 of the said rules the following rule shall be inserted, namely :—

"6A. *Application under clause (d) of sub-section (3) of section 22.*—

(1) For obtaining the previous approval of the Central Government under clause (d) of sub-section (3) of section 22 of the Act, there shall be made an application in Form IIB.

(2) The procedure laid down in sub-rule (2) and sub-rule (3) of rule 5 shall be applicable to an application referred to in sub-rule (1) of this rule

(3) The Central Government may, before passing any order on an application submitted under sub-rule (1), require the applicant to furnish such additional information as that Government may consider necessary."

7. In rule 8 of the said rules, for sub-rule (2), the following shall be substituted, namely :—

"(2) Every application referred to in sub-rule (1), shall be accompanied by a challan or a bank draft evidencing payment of a fee of rupees two hundred."

8. In rule 9 of the said rules, for sub-rule (2), the following shall be substituted, namely :—

"(a) Every application referred to in sub-rule (1), shall be accompanied by a challan or a bank draft evidencing payment of a fee of rupees five hundred."

9. After rule 9 of the said rules, the following shall be inserted, namely :—

"9A. *Application for cancellation of registration.*—(1) Every application for cancellation of registration made under sub-section (3) of section 26 of the Act shall clearly indicate the reasons for making such an application and shall also be accompanied by an affidavit signed by the principal officer in support of the statements made in the application.

(2) The statements in support of the application referred to in sub-rule (1) shall be in conformity with the form specified in the Schedule to

the Monopolies and Restrictive Trade Practices (Information) Rules, 1971, as amended, from time to time, or as near thereto as circumstance admit.

(3) Every application referred to in sub-rule (1) shall be accompanied by a challan or a bank draft evidencing payment of a fee of rupees one thousand.

9B. Application for approval under section 30B.—(1) Every application for approval of the Central Government under section 30B of the Act shall be in Form VIII.

(2) Every application under sub-rule (1) shall be accompanied by a challan or a bank draft evidencing payment of a fee of rupees five hundred.

9C. Intimation under section 30C and application for approval under section 30D.—(1) Every intimation, referred to in section 30C and every application for approval under section 30D shall be given in Form IX.

(2) Every application under sub-rule (1) shall be accompanied by a challan or a bank draft evidencing payment of a fee of rupees five hundred."

10. For rule 10 of the said rules, the following shall be substituted, namely :—

"10. Payment of fees.—(1) Fees payable under the Act or any rules or regulations made there under shall be paid by means of a challan into the Public Account of India at the undermentioned branches of the Punjab National Bank for credit under the Head of Account—"104—Other General Economic Services—Fees realised under the Monopolies and Restrictive Trade Practices Act, 1969—(i) Fees realised by the Monopolies and Restrictive Trade Practices Commission and by the Director General of Investigation and Registration ; (ii) Application fees realised by the Central Government under the Monopolies and Restrictive Trade Practices Act, 1969."

Sl. No.	City	Name of the Branch of the Punjab National Bank
1.	Ahmedabad	Ashram Road
2.	Allahabad	Civil Lines
3.	Banglore	City Branch
4.	Bombay	Phiroz Shah Mehta Road
5.	Calcutta	Brabourne Road
6.	Chandigarh	Sector 17
7.	Cuttack	Cuttack
8.	Delhi	Barakhamba Road, New Delhi.
9.	Ernakulam	Ernakulam
10.	Gwalior	Naya Bazar
11.	Hyderabad	Bank Street
12.	Jaipur	M. I. Road
13.	Jodhpur	Ratnada Colony
14.	Jullundur	Civil Lines
15.	Kanpur	Swroop Nagar
16.	Madras	Mount Road

Sl. No.	City	Name of the Branch of the Punjab National Bank
17.	Nagpur	Kingsway
18.	Parnaji	Piffurlekar head
19.	Patna	Boring Road
20.	Shillong	Shillong
21.	Srinagar	Amrakadala

(2) The fees payable under the Act, or any rule or regulations made thereunder may also be paid by means of a Demand Draft drawn in favour of Pay and Accounts Officer, Department of Company Affairs, New Delhi.

(3) The Challan/Bank Draft may be sent to the Department of Company Affairs, Shastri Bhawan, New Delhi or the Monopolies and Restrictive Trade Practices Commission or the Director General of Investigation and Registration, New Delhi, as the case may be "

11. For rule 11 of the said rules, the following shall be substituted, namely :—

"11. *Application under section 36(3) of the Act*—(1) Where an application is received by the Director General under sub-section (3) of section 36 of the Act and he is of the opinion that it can be disposed of in conformity with any general directions issued by the Commission, he shall do so after giving the applicant an opportunity of being heard.

(2) Any application made to the Director General under sub-section (3) of section 36 of the Act shall be accompanied by six additional copies thereof."

12. After rule 11, the following shall be inserted as rule 11A, namely :—

"11A. *Particulars to be entered in the register and its maintenance.*—

(1) The Director General shall enter the particulars of agreements registrable under sub-section (1) of section 33 of the Act and the substance of each order made by the Commission under section 37 in the register maintained in accordance with Form X.

(2) The Director General shall maintain a special section of the register under sub-section (2) of section 36 of the Act for entering therein such particulars as may be directed by the commission or as may be prescribed by regulation made in this behalf under section 66.

(3) The Director General shall maintain an alphabetical index of the names of the parties to the agreement other than those reserved to be entered in the special section of the register.

(4) The Director General shall also maintain an alphabetical index of the agreements in relation to the goods or services covered by such agreements, as far as practicable, on the lines of the classification specified in the Schedule to the Monopolies and Restrictive Trade Practices (Classification of Goods) Rules, 1971.

(5) All agreements and other documents furnished under section 35 of the Act shall be kept in separate folders arranged in alphabetical order according to the name of the first contracting party.

(6) The Director General shall also maintain in separate registers, particulars in respect of restrictive trade practices, monopolistic trade

(4)

(5)

(vii) Name and address of the Chief Functionary of the Association :—

2. The Association shall receive/accept foreign contribution only through the branch of the..... (name of the bank) located at only. The separate bank account number of the Association in the said branch of the bank is.....

3. The Association undertakes to inform you if any change takes place in regard to the name of the Association, its address, its registration, its nature, its aims and objects or the names and addresses of its office-bearers including that of the Chief Functionary. Further, a fresh application for registration will be made if the Association closes its account with the bank mentioned in para 2 above and opens account with another bank or branch of the bank mentioned in para 2 above.

Yours faithfully,

Chief Functionary
for and on behalf of Association
(name of Association.)"

"FORM FC-9
(omitted)

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 361, dated the September 15, 1984.

MINISTRY OF COMMERCE

G S R 658(E)—(*New Delhi, the 15th September, 1984*).—In exercise of the powers conferred by section 25 of the Jute Manufactures Development Council Act, 1983 (27 of 1983), the Central Government hereby makes the following rules, namely :—

1. *Short title*.—These rules may be called the **Jute Manufactures Development Council (Procedural) Rules, 1984**.

2. *Commencement*.—They shall come into force on the date of their publication in the Official Gazette.

3. *Definitions*.—In these rules, unless the context otherwise requires,—

(a) "Act" means the Jute Manufactures Development Council Act, 1983 (27 of 1983);

(b) "Vice Chairman" means the Vice-Chairman of the Council elected in accordance with sub-section (5) of section 3 of the Act ;

(c) "member" means a member of the Council and includes the Chairman and the Vice-Chairman ;

(d) "Secretary" means the principal officer of the Council appointed under rule 6 of these rules to carry on the functions of Secretary of the Council ;

(e) "Jute Fund" means the fund created under sub-section (1) of section 10 of the Act.

4. *Powers and Function of the Chairman*.—(1) Subject to the provisions of the Act and the rules framed thereunder, the Chairman shall be responsible for the day to day functioning of the Council.

5. *Powers & function of the Vice-Chairman.*—(1) The Vice-Chairman shall preside over the meetings of the Council in the absence of the Chairman.

(2) If a casual vacancy occurs in the office of the Vice-Chairman on account of his resignation or his ceasing to be a member or otherwise, the Council shall elect at its next meeting another member as the Vice-Chairman who shall hold office for the unexpired period of the term of office of the previous Vice-Chairman.

6. *Powers and duties of the Secretary*—(1) The Secretary shall be appointed by the Council with the approval of the Central Government.

(2) The Secretary shall be the principal officer of the Council and shall work under the supervision of the Chairman.

(3) It shall be the duty of the Secretary to :—

(i) implement all decision taken by the Council ;

(ii) co-ordinate and supervise the work of the other officers and the establishments of the Council ;

(iii) convene under the directions of the Chairman meetings of the Council ;

(iv) maintain the minute books containing a record of the business transacted by the Council ;

(v) furnish to the Central Government all reports, returns and other necessary documents required to be furnished to that Government by the Act ;

(vi) prepare every year the Budget Estimates and Accounts of the Council for the Council's approval ;

(vii) sanction re-appropriation of grants under the such powers as may be delegated by the Councils and within such time limits as may be specified by it ;

(viii) administer the Provident Fund of the Council ;

(ix) undertake such other duties and exercise such other powers, as may, from time to time, be entrusted or delegated to him by the Council or the Chairman.

7. *Tenure of appointment of member.*—(1) Subject to the provisions of sub-rule (2), a member of the Council shall hold office for a period of two years.

(2) It shall be competent for the Central Government to appoint another person in the place of a member appointed under sub-section (4) of section 3 of the Act before the completion of two years if it is of opinion that such member has ceased to represent the interests he was appointed to represent.

8. *Resignation of member.*—(1) A member of the Council may resign his office by writing a letter under his hand addressed to the Chairman of the Council.

(2) The office of a member shall fall vacant from the date on which his resignation is accepted by the Government or on the expiry of 30 (thirty) days from the date of receipt of resignation whichever is earlier.

9. *Absence of Members from India.*—If a member intends to leave India for more than one month, he shall intimate the Chairman the date of his departure and the date of his expected return to India and if such member intends to be absent from India for a period longer than 6 (six) month she shall tender his resignation.

10. *Cessation of membership.*—(1) A member shall cease to be a member if he fails to attend three consecutive meetings of the Council without leave of the Chairman.

(2) A member shall cease to be a member,—

(i) if he becomes of unsound mind and is declared so by a competent Court, or

(ii) if he is an undischarged insolvent, or

(iii) if he is convicted of an offence involving moral turpitude.

11. *Filling of causal vacancy of members.*—(1) Any causal vacancy in the membership of the Council by any reason shall be filled by appointment by the Central Government.

(2) A member appointed to fill a causal vacancy shall hold office for so long as the member, whose place he fills, would have been entitled to hold office if the vacancy had not occurred.

12. *Appointment of substitutes.*—Should a person, appointed as a member of the Council, be prevented from attending a meeting of the Council, a substitute to take his place may be appointed by the Central Government. Such substitute shall have rights and privileges as a members for that meeting only.

13. *Change of address.*—A member shall keep the Secretary informed of any change in his address and on failure to inform the change of his address, the address given in the first instance shall for all purposes be deemed to be his correct address.

14. *Procedure for meetings of the Council.*—(1) Not less than one meeting of the Council shall be held in each financial year.

(2) The Chairman may, at any time, convene a meeting of the Council :

Provided that it shall be the duty of the Chairman to convene a meeting of the Council if a requisition for such meeting is presented to him in writing by at least eleven members :

Provided further that it shall be competent for the Central Government to require the Chairman to convene a meeting at any time :

Provided further that in cases of emergency, a special meeting may be summoned at any time by the Chairman who shall inform in advance the Government of India and members of the subject matter for discussion and the reasons for which he considers it urgent. No other business shall be transacted at such special meeting.

(3) The Secretary shall, with the approval of the Chairman, or, in the absence of the Chairman, fix the date, time and place of every meeting of the Council and issue notice of the meeting giving at least ten clear days' notice.

(4) The Secretary shall, with the approval of the Chairman, or in absence of Chairman, the Vice-Chairman, prepare and circulate amongst the members, at least seven days before a meeting of the Council, a list of the business to be transacted at such meeting. No business, not included in the Agenda shall be considered at a meeting of the Council, without permission of the Chairman of the meeting. If any member desires to suggest any subject for discussion by the Council, he shall give at least ten clear days' notice.

(5) The Chairman, or in his absence, the Vice-Chairman shall preside over the meetings of the Council :

Provided that where both the Chairman and the Vice-Chairman are absent, the members present shall elect a member from among themselves to preside over the meeting.

(6) One-third of the total number of members of the Council but not less than seven members present shall form a quorum at a meeting of the Council.

(7) In case of difference of opinion amongst the members of the Council present at a meeting, the opinion of the majority shall prevail. Each member of the Council shall have one vote. In case of any equality of votes, the Chairman or the Vice-Chairman, or in the absence of both the member presiding over such meeting shall have a second or a casting vote.

(8) Any proposal, which the Council is required to consider, may be referred to all its members either at its meeting or by circulation among all its members and any proposal so circulated and approved by a majority of members shall be as effectual and binding as if such proposal had been passed at a meeting of the Council :

Provided that at least one third of the total number of members of the Council have recorded their views on the proposal. When business is transacted by circulation of papers, a record of business so transacted shall be signed by the Chairman or the Vice-Chairman of the Council.

(9) A record shall be maintained of all business transacted by the Council and copies of such record shall be submitted to the Central Government. The record of business transacted at a meeting of the Council shall be signed by the Chairman presiding over such meeting.

15. *Validity of the acts and proceedings*—No act or proceedings of the Council shall be invalid or questioned on the ground merely of any vacancy in, or any defect in the constitution of the Council.

16. *Powers of the Council.*—(1) Powers of appointment.—Subject to the provisions of section 6 of the Act, the Council may create new posts and make appointments thereto as may be necessary for the efficient performance of its functions, provided that no posts carrying the maximum salary beyond Rupees 1,300 per mensem shall be created or filled without the previous approval of the Central Government.

(2) Other Powers :

(i) Subject to the provisions of rule 18, the Council may, by resolution, sanction any expenditure or enter into any contract involving expenditure from the Fund in the discharge of its functions under the Act :

Provided that the Council shall not sanction any expenditure or enter into any contract involving expenditure in excess of the budget allotments.

Provided further that the Council shall not enter into any contract involving any expenditure in excess of two lakhs of rupees, without the previous approval of the Central Government.

(ii) The Council shall have power to write off, in any individual case, loss upto five thousand rupees.

(iii) The Council may incur expenditure outside India upto an amount not exceeding ten thousand rupees on each individual item subject to the provisions of rule 18.

17. *Register of numbers.*—(1) The Secretary shall maintain a register in which the name and address of each member of the Council shall be entered.

(2) The names and addresses of members of Committees shall be kept in a separate register.

(3) If a member of the Council or any of its Committees changes his address, he shall notify his new address to the Secretary and the Secretary shall amend the relevant entry in the register accordingly.

18. *Annual Budget Estimates—*

(a) *Preparation and submission—*

The Council shall in each year prepare, in such manner as the Central Government may from time to time direct, budget estimates for the ensuing financial year and revised estimates for the current year and shall submit them for the approval of the Central Government on or before such dates as may be fixed by that Government. The budget as approved by the Central Government shall be the sanctioned budget for the year.

(b) *Re-appropriation—*

(i) If the Council finds in the course of the year that there is likely to be an excess of expenditure over the sanctioned budget estimate under any head, it shall examine the allotment under each head of the budget estimate with the object of finding probable saving under any other head and effecting a re-appropriation. Where such re-appropriation is feasible, it may sanction the re-appropriation subject to such conditions as may be laid down by the Central Government from time to time.

(ii) Funds shall not be re-appropriated to meet expenditure on a new service not contemplated in the budget estimates except, with the prior approval of the Central Government.

19. *Maintenance and operation of Bank Accounts and Investment of Funds of the Council—*(1) All moneys received by the Council shall as soon as possible be deposited in the State Bank of India or such other Nationalised Banks as may be approved by the Council, and shall not be utilised for any purpose other than the purpose of the Act.

(2) All payments by or on behalf of the Council shall be made by cheques except for amounts not exceeding ordinarily Rs. 1000 and extraordinarily Rs. 2500 under special sanction of the Secretary, which be paid in cash.

(3) Such cheques and all orders for making deposits or investments or for the withdrawal of the same shall be signed jointly by the Secretary and by the chief accounts officer, or by any two officers authorised by the Council, in this behalf.

(4) No payment shall be made out of the funds of the Council unless the expenditure is covered by the sanctioned budget.

(5) All payments by the Council shall be made on bills or other documents duly prepared and passed by the Secretary or other officer authorised by the Council in this behalf. The paid vouchers shall be stamped "Paid" or so cancelled that they cannot be used a second time.

(6) All funds not required for current expenditure may be placed in fixed deposit with such Banks as the Central Government may approve. The placing of money in fixed deposit and the disposal of money so placed shall require the sanction of the Chairman or in his absence, the Vice-Chairman.

20. *Sending persons abroad.*—The Council shall not send any member of the Council or any of its officers or employees to places outside India without the previous sanction of the Central Government.

THE JUTE MANUFACTURES CESS RULES, 1984

G. S. R. 659 (E) :—In exercise of the powers conferred by sub-section (1) of section 6 of the Jute Manufacture Cess Act, 1983 (28 of 1983), the Central Government hereby makes the following rules, namely :—

1. *Short title.*—(1) These rules may be called the **Jute Manufactures Cess Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions*—In these rules, unless the context otherwise requires,—

(a) “Act” means the Jute Manufactures Cess Act, 1983 (28 of 1983);

(b) “Cess” means the duty of excise levied under sub-section (1) of section 3 of the Act;

(c) “Collector” means the Collector of Central Excise appointed under the Central Excises and Salt Act, 1944 (1 of 1944) and includes an Additional Collector of Central Excise, Deputy Collector of Central Excise, Assistant Collector of Central Excise and Superintendent of Central Excise;

(d) “Commissioner” means the Jute Commissioner of the Government of India and includes the Deputy Jute Commissioner, Industrial Adviser and Deputy Director in the Office of the Jute Commissioner;

(e) “Producer”, in relation to a jute manufacture, means the producer of such jute manufactures;

(f) “Council” means the Jute Manufacturers Development Council set up under sub-section (1) of section 3 of the Jute Manufacturers Development Council Act, 1983 (27 of 1983);

(g) “Jute Fund” means the Fund created under sub-section (1) of section 10 of the Jute Manufacturers Development Council Act, 1983 (27 of 1983);

(h) Words and expressions used herein and not defined but defined in the Central Excises and Salt Act, 1944 (1 of 1944) or the rules made thereunder shall have the same meaning, respectively assigned to them in that Act or the rules.

3. *Rate of Cess.*—Cess shall be payable at the rate specified by the Central Government in accordance with the Act from time to time on finished jute manufactures removed for sale/subsequent sale by the producer for export abroad and/or for distribution and consumption within the country.

4. *No refund of Cess on account of Exports.*—No refund of cess shall be allowed on the jute manufactures exported from India.

5. *Maintenance of Register.*—Every producer shall maintain a register of production indicating therein the total quantity of jute manufactures manufactured by him during a month, the quantity (if any) used by him for the manufacture of any other commodity, the quantity removed on payment of duty under the Central Excises and Salt Act, 1944 (1 of 1944), the quantity removed for export without payment of such duty, the total value ad valorem and the cess payable thereon at the rate for the time being in force.

6. *Submission of monthly returns.*—(1) Every producer shall furnish to the Collector with a copy each to the Council and the Commissioner, the

particulars specified in the Annexure to these rules, for each month, duly signed by the producer or any other person authorised by him in this behalf, so as to reach them not later than fifteen days after the expiry of the month to which the return relates alongwith a certified copy of the returns submitted to the proper officer under rule 54 of the Central Excise Rules, 1944 for the relevant month.

(2) The return referred to in sub-rule (1) shall be furnished by the producer to the authorities referred to therein by registered post with acknowledgement due.

(3) If any producer fails to furnish the return within the date specified in sub-rule (1) or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector may serve a notice on the producer calling upon him to produce all or any of his accounts relating to the jute manufactures produced in and removed from his factory.

7. *Revision of returns.*—If the producer, after furnishing a return, discovers any omission or wrong statement therein, he may with the permission of the Collector make appropriate changes in the return and re-submit it to the Collector at any time before he receives the notice of demand.

8. *Right of the Collector/Council to inspect the production records of the producer.*—(1) Every producer shall permit any person authorised in writing in this behalf by the Collector or the Council to inspect the books of account and records of production maintained by him for the purpose of verifying the correctness of the monthly returns furnished by him.

(2) If as a result of such inspection any sum of money is found to be due to the Central Government from the producer by way of cess, the Collector may within three months of completion of the inspection, issue a notice of demand for the payment thereof within a month from the date of receipt of such notice.

9. *Manner of Accounting.*—The proceeds of the cess levied under sub-section (i) of section 3 of the Act, shall be credited to the Consolidated Fund of India under the Minor Head "Cess on Jute—Subordinate Major Head D—Cess on commodities under the Minor Head 1038—Union Excise Duties" and the Central Government may, after due appropriation made by Parliament by law in this behalf, handover to the Council such sums, as it may consider necessary from out of such proceeds after deducting therefrom the cost of collection.

10. *Cost of Collection.*—The cost of collection chargeable by the Central Excise shall not exceed four per cent of the proceeds of cess so collected by the Central Excise.

11. *Organisation by which and purposes for which the proceeds of the cess shall be utilised.*—The Jute Manufactures Development Council set up under sub-section (i) of Section 3 of the Jute manufactures Development Council Act, 1983 (27 of 1983) shall be the organisation for utilisation of the cess fund so granted to it by the Central Government. The fund shall be utilised for :

(a) meeting the cost of the measures provided in section 7 of the Jute Manufactures Development Council Act, 1983 (27 of 1983) ;

(b) meeting expenses on the salaries, allowances and other remuneration of the officer and other employees of the Council ;

(c) meeting the other administrative expenses of the Council as may be involved in running the Council and in the discharge of its functions ; and

(d) repayment of any loans taken on the security of the Jute Fund, and credited to the Jute Fund for carrying out the purposes of the Jute Manufacture Development Council Act, 1983 (27 of 1983).

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 364, dated September 17, 1984

MINISTRY OF FINANCE

G. S. R. 667 (E).—(*New Delhi, the 17th September, 1984*).—In exercise of the powers conferred by sub-section (2) of section 146 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations to amend the Customs House Agents Licensing Regulations, 1984, namely:—

1. (1) These regulations may be called the **Customs House Agents Licensing (Amendment) Regulations, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

In regulation 10 of the Customs House Agents Licensing Regulation 1984 (hereinafter referred to as the said regulation), in sub-regulation (2), after clause (c), the following clause shall be inserted namely:—

“He shall produce evidence of knowledge of the local language of the Custom Station at which he wished to conduct business.”

2. For regulation 11 of the said regulations, the following regulation shall be substituted, namely:—

“11. *Execution of bond and furnishing of security*.—(1) Before granting a temporary licence under regulation 8 or a regular licence under regulation 10, the concerned Collector shall require the applicant to enter into a bond in Form E, and, if necessary a surety bond in Form F for due observance of these regulations and shall also require him to furnish a bank guarantee, postal security or National Savings Certificate, in the name of Collector of Customs, for an amount of Rs 25,000/- for carrying out of business of Custom House Agent at a Customs station referred to in clause (b) of regulation 6 and Rs. 10,000 in the case of other customs stations.”

(2) For carrying on of business as Custom House Agents at more than one customs station falling within the jurisdiction of different Customs, a separate bond accompanied by bank guarantee, postal security or National Savings Certificate shall be required to be executed.

(3) If the applicant furnishes postal security or National Savings Certificate, the same shall be pledged in the name of the Collector and the applicant shall get the benefit of the interest accruing on it.”

3. For regulation 17 of the said regulations, the following shall be substituted, namely:—

“17 *Change in the Constitution of concern*.—(1) Where a licence granted or renewed under these regulations in favour of a person, not being a firm or a company, changes the constitution of his concern to a firm or company, such new firm or new company may, pending the grant of a regular licence in accordance with these regulations, be permitted to act as Customs House Agent with the approval of the Collector Customs.”

(2) Notwithstanding anything contained in sub-regulation (1), where a licence granted or renewed under these regulations in favour of a person has ceased to be in force because of the death of that person, his legal heir who has been assisting in the work of clearance of goods through customs and is employed as such under regulation 20, may be granted a licence if there is nothing adverse against him and if he qualifies in the examination referred to in regulation 9."

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (ii),
No. 468, dated 22nd, September, 1984.

MINISTRY OF CHEMICALS AND FERTILIZERS

S. O. 732(E).—(*New Delhi, the 22nd September, 1984*).—In exercise of the powers conferred by sub-section (2) of section 1 of the **Bengal Immunity Company Limited (Acquisition and Transfer of Undertakings) Act, 1984** (57 of 1984), the Central Government hereby appoints the 1st October, 1984 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (ii),
No. 488, dated 29th, September, 1984.

INCOME TAX SETTLEMENT COMMISSION

S. O. 756 (E).—(*New Delhi, the 29th September, 1984*).—In exercise of the powers conferred by sub-section (5) of section 22F of the **Wealth-tax Act, 1957** (27 of 1957) the Wealth-tax settlement Commissioner hereby makes the following rules to amend the **Wealth-tax Settlement Commissioner (Procedure) Rules, 1976**, namely :—

1. (1) These rules may be called the **Wealth-tax Settlement Commission (Procedure) (Amendment) Rules, 1984**.

(2) They shall come into force on the 1st day of October, 1984.

2. In the **Wealth-tax settlement Commission (Procedure) Rules, 1976**, in rule 2, for clause (iii) relating to modification of rule 7, the following clause shall be substituted, namely :—

“(iii) Modification of rule (In rule 9 of the said rules, for the word, figures and letter “section 245D” the word, figures and letters “section 22D” shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 496, dated 5th October 1984.

MINISTRY OF CHEMICALS AND FERTILIZERS

S. O. 168(E).—(*New Delhi, the 5th October, 1984*).—In exercise of the powers conferred by clause (h) of section 2 of the **Bengal Immunity Company Limited (Acquisition and Transfer of Undertakings) Act, 1984** (57 of 1984), the Central Government hereby specifies the 10th day of October, 1984, as the date for the purposes of sub-section (1) of section 16 of the said Act.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 523, dated 26th October, 1984.

MINISTRY OF FINANCE

S. O. 806(E)/No. E(C), 1977/AM(294).—(*New Delhi, the 26th October, 1984*).—In exercise of the powers conferred by section 3 of the **Imports and**

Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely :—

1. This order may be called the **Exports (Control) Fourteenth Amendment Order, 1984.**

2. In the Exports (Control) Order, 1977, is Part 'B' Schedule 'I', the following item shall be added after S. No. 20C :—
"20D-Bajra"

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 552 dated 29th, October, 1984.

MINISTRY OF FINANCE

S. O. 808 (E).—(*New Delhi, the 29th, October, 1984*)—In exercise of the powers conferred by sub-section (3) of section 1 of the **Chit Funds Act, 1982** (40 of 1982); the Central Government hereby appoints the 1st day of November, 1984 as the date on which the provisions of the said Act shall come into force in the State of Himachal Pradesh.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 488, dated September 29, 1984

INCOME TAX SETTLEMENT COMMISSION

S. O. 755(E).—(*New Delhi, the 29th September, 1984*).—In exercise of the powers conferred by sub-section (5) of section 245F of the Income-tax Act, 1961 (43 of 1961), the Income-tax Settlement Commission hereby makes the following rules to amend the Income-tax Settlement Commission (Procedure) Rules, 1976, namely :—

1. (1) These rules may be called the **Income-tax Settlement Commission (Procedure) (Amendment) Rules, 1984.**

(2) They shall come into force on the 1st day of October, 1984.

2. In rule 6 of the Income-tax Settlement Commission (Procedure) Rules, 1976 (hereinafter referred to as the said rules),—

(a) for the words "a copy thereof", the words and brackets "a copy of the said application (other than the Annexure and the statements and other document accompanying such Annexure)" shall be substituted;

(b) for the words "receipt of the application", the words "receipt of the said copy of the application" shall be substituted.

3. Rule 7 of the said rules shall be omitted.

4. In rule 1 of the said rules, for the words and figures "in the statement of facts furnished under rule 7", the words and brackets "in the settlement application (including the Annexure and the statements or other documents accompanying such Annexure)" shall be substituted.

5. For rule 9 of the said rules, for the following rule shall be substituted, namely :—

"9. *Commissioner's further report.*—Where an order is passed by the Commission under sub-section (1) of section 245D allowing the settlement application to be proceeded with, a copy of Annexure to the said application, together with a copy of the statements and other document accompanying such Annexure, shall be forwarded to the Commissioner along with a copy of the said order with the direction that the Commissioner shall furnish a further report within ninety days of the receipt of the said Anne-

xure (including the statements and other documents accompanying it) or within such further period as the Commission may specify".

6 In rule 10 of the said rules, for the words "the Commissioner's report", the words "the Commissioner's further report" shall be substituted.

7. In rule 12 of the said rules,—

(a) for the words and figure "in the statement of facts furnished under rule 7", the words and bracket "in the settlement application (including the Annexure and the statements and other documents accompanying such Annexure)" shall be substituted ;

(b) for the words "in that rule", the words "in the settlement application, shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),

No. 374, dated August 4, 1984

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

S. O. 555(E).—(*New Delhi, the 4th August, 1984*).—In exercise of the powers conferred by section 159 of the Representation of the People Act, 1951 (43 of 1951), the Central Government, after consulting the Election Commission, hereby makes the following rules further to amend the Conduct of Election Rules, 1961, namely :—

1. (1) These rules may be called the **Conduct of Elections (Amendment) Rules, 1984**.

(2) They shall come into force at once.

2. In the Conduct of Election Rules, 1961,—

(1) In Form 1, in paragraph (5) after the words "election agent", the words "who has been authorised in writing by the candidate to deliver it" shall be inserted ;

(2) in Form 2A,—

(i) for the words "Candidate's name....." the following shall be substituted, namely :—

"Candidate's name..... father's/husband's name....."

(ii) after paragraph (c), the following paragraph shall be inserted, namely :—

"(d) that my name and my father's/husband's name have been correctly spelt out above(name of the language)";

(iii) in the third footnote, for the words "Laccadive, Minicoy and Amindivi Islands and in relation to Tuensang District Nagaland", the words "and Lakshadweep" shall be substituted ;

(3) in Form 2B,—

(i) for the words "Candidate's name.....," the following shall be substituted, namely :—

"Candidate's name..... father's/husband's name....."

(ii) after paragraph (c), the following paragraph shall be inserted, namely :—

"(d) that my name and my father's/husband's name have been correctly spelt out above in.....(name of the language)";

(4) in Form 2C,—

(i) for the words "Candidate's name....." the following shall be substituted, namely :—

"Candidate's name.....father's/husband's name.....";

(ii) for the portion beginning with the words "I, the above mentioned candidate" and ending with the words "years of age", the following shall be substituted, namely :—

"I, the above mentioned candidate, assent to this nomination and hereby declare :—

(a) that I have completed.....years of age

(b) that I am set up at this election by the..... party ;

(c) that my name and my father's/husband's name have been correctly spelt out above in.....(name of the language)";

(5) in Form 2D,—

(i) for the words "Candidate's name....." the following shall be substituted, namely :—

"Candidate's name.....father's/husband's name.....";

(ii) for the portion beginning with the words "I, the above mentioned candidate" and ending with the words "years of age," the following shall be substituted, namely :—

"I, the above mentioned candidate, assent to this nomination and hereby declare.—

(a) that I have completed.....years of age

(b) that I am set up at this election by the..... party ;

(c) that my name and my father's/husband's name have been correctly spelt out above in.....(name of the language)";

(6) in Form 2E,—

(i) for the words "Candidate's name.....," the following shall be substituted, namely :—

"Candidate's name.....father's/husband's name.....";

(ii) for the portion beginning with the words "I, the above mentioned candidate" and ending with the words "years of age", the following shall be substituted, namely :—

"I, the above mentioned candidate, assent to this nomination and hereby declare.—

(a) that I have completed.....years of age

(b) that I am set up at this election by the..... party ;

(c) that my name and father's/husband's name have been correctly spelt out above in.....(name of the language)";

(7) in Form 5,—

(i) for the words "candidate nominated," the words "candidate validly nominated" shall be substituted,

(ii) for the words "candidate," at both the places where it occurs, the words "validly nominated candidate" shall be substituted ;

(8) in Form 6, for the word "candidate" wherever it occurs, the words "validly nominated candidate" shall be substituted ;

(9) in Form 7A, in the table, column 4 shall be re-numbered as column 5, and before column 5 as so re-numbered, the following heading and column number shall be inserted, namely :—

"Party affiliation
4";

(10) in Form 7B, in the table, the following heading and column number shall be added at the end, namely :—

"Party affiliation
4";

(11) in Form 8, after the entry "Signature of election agent," the following shall be inserted, namely :—

"Approved....."

Signature and Seal of the
Returning Officer.;"

(12) in Form 10, for the words "appoint of" the words and brackets "appoint.....(Name and address)" shall be substituted ;

(13) for Form 12A, the following Form shall be substituted, namely:—

"Application for Election Duty Certificate"

[See rule 20 (2)]

To

The Returning Officer

Assembly

constituency

Parliamentary

Sir,

I intend to cast my vote in person at the ensuing election Legislative Assembly..... to the
.....from the.....

House of the People
constituency.

I have been posted on election duty within the constituency at.....
.....(No. and name of the polling station) but my name is entered at Serial No.....part No.....of the election rolls for
.....assembly constituency comprised within.....parliamentary constituency.

I request that an Election Duty Certificate in Form 12B may be issued to enable me to vote at the polling station where I may on duty on the polling day. It may be sent to me at the following address :—

.....
.....
.....

Place.....

Date.....

Your faithfully,
....."

(14) In Form 12B, after the words "at any polling station," the words "in the said constituency where" shall be inserted ;

(15) in Form 13B, for the heading "Cover," the heading "Cover A" shall be substituted ;

(16) in Form 13C, for the heading "Cover," at both the place where it occurs, the heading "Cover B" shall be substituted ;

(17) in Form 14, for the heading "Polling Station.....," the heading "Number and name of Polling Station in assembly constituency/Name of place of poll....." shall be substituted ;

(18) in Form 14A, for the heading "No. and name of Polling Station/Name of place of poll.....," the heading "Number and name of Polling Station..... in assembly constituency Name of place of poll....." shall be substituted ;

(19) in Form 15, for the words "Number and Name of Polling Station.....," the words "Number and Name of Polling Station..... in assembly constituency/Name of place of poll....." shall be substituted ;

20. in Form 21, after the brackets and word "(Address)," the words and brackets "sponsored by.....(name of the recognised/registered political party)" shall be inserted ;

(21) in Form 21A, after the brackets and word "(Address)," at both the places where they occur, the words and brackets "sponsored by.....(name of the recognised/registered political party)" shall be inserted ;

(22) in Form 21B, after the brackets and word "(Address)," the words and brackets "sponsored by.....(name of the recognised/registered political party)" shall be inserted ;

(23) in Form 21C, after the brackets and word "(Address)," the words and brackets "sponsored by.....(name of the recognised/registered political party)" shall be inserted ;

(24) in Form 21D, after the brackets and word "(Address)," the words and brackets "sponsored by.....(name of the recognised/registered political party)" shall be inserted ;

(25) in Form 21E,—

(i) for the existing headings to the table, the following headings shall respectively be substituted, namely :—

Serial No.	Name of candidate	Party affiliation	Number of votes polled
------------	-------------------	-------------------	------------------------

(ii) before the entry "Total number of valid votes polled....." the entry "Total number of electors....." shall be inserted ;

(26) in Form 22, after the words "duly elected by the said constituency," the words "in the General Election/By election shall be inserted ;

(27) in Form 23 after the brackets and word "(Address)," at both the places where they occur the words and brackets "sponsored by.....(name of the recognised/registered political party)" shall be inserted ;

(28) in 23A after the brackets and word "(Address)," the words and

brackets "sponsored by———(name of the recognised/registered political party)" shall be inserted ;

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (ii),
No. 411, dated August 27, 1984.

MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS

New Delhi, the 24th August, 1984

S. O. 641(E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **India Contract Act, 1872** (9 of 1872) shall come into force in the State of Sikkim.

S. O. 642 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Indian Trusts Act, 1882** (2 of 1882) shall come into force in the State of Sikkim.

S. O. 643 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Transfer of Property Act, 1882** (4 of 1882) shall come into force in the State of Sikkim.

S. O. 644 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S.O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984, as the date on which the **Guardians and Wards Act, 1890** (8 of 1890) shall come into force in the State of Sikkim.

S. O. 645 (E).—In pursuance of the notification of the Government of India in Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Sale of Goods Act, 1930** (3 of 1930) shall come into force in the State of Sikkim.

S. O. 646 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Arbitration Act, 1940** (10 of 1940) shall come into force in the State of Sikkim.

S. O. 647 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529(E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Limitation Act, 1963** (36 of 1963) shall come into force in the State of Sikkim.

S. O. 648 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529(E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Specific Relief Act, 1963** (47 of 1963) shall come into force in the State of Sikkim.

S. O. 649 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Oaths Act, 1969** (44 of 1969) shall come into force in the State of Sikkim.

S. O. 650 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529(E), dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the on which the **Power of Attorney Act, 1882** (7 of 1882) shall come into force in the State of Sikkim.

S. O. 651 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Partition Act, 1893** (4 of 1893) shall come into force in the State of Sikkim.

S. O. 652 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S.O. 529(E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Indian Majority Act, 1875** (9 of 1875) shall come into force in the State of Sikkim.

S. O. 653 (E).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S. O. 529 (E) dated the 22nd July, 1983, the Central Government hereby appoints the 1st day of September, 1984 as the date on which the **Legal Representative' Suits' Act, 1855** (12 of 1855) shall come into force in the State of Sikkim.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 489, dated October 1, 1984.

CENTRAL BOARD OF DIRECT TAXES

S. O. 757(E).—(*New Delhi, the 1st October, 1984*).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income-tax (Third Amendment) Rules, 1984**.

(2) They shall come into force on the 1st day of October, 1984.

2. In the Income-tax Rules, 1962,—

(i) after Part III, the following Part shall be inserted, namely :—

“PART III-A

AVOIDANCE OF REPETITIVE APPEALS

16. **Declaration under section 158A**—(1) The declaration referred to in sub-section (1) of section 158A shall be in Form No. 8 and shall be verified in the manner indicated, therein.

(2) The declaration and the verification referred to in sub-rule (1) shall be signed by the person specified in sub-rule (2) of rule 45.

(3) The declaration referred to sub-rule (1) shall,—

(a) in a case where it is furnished to the Appellate Assistant Commissioner or the Commissioner (Appeals), be in duplicate, and

(b) in a case where it is furnished to the Appellate Tribunal be in triplicate.”;

(H) In rule 44C,

(a) in sub-rule (1), the following words shall be added at the end, namely :—

"and shall be verified in the manner indicated therein";

(b) for sub-rule (2), the following sub-rule shall be substituted, namely :—

"(2) The application referred to in sub-rule (1), the verification appended thereto, the Annexure to the said application and the statements and documents accompanying the Annexure shall be signed by the person specified in sub-rule (2) of rule 45";

(iii) after rule 44C, the following rule shall be inserted, namely :—

"44CA. *Disclosure of information in the application for settlement of cases.*—(1) The Settlement Commission may, while calling for a report from the Commissioner under sub-section (1) of section 245D, forward a copy of the application filed in Form No. 34B (other than the Annexure and the statements and other documents accompanying such Annexure).

(2) Where an order under sub-section (1) of section 245D allowing the application to be proceeded with is made by the Settlement Commission, the information contained in the Annexure to the application in Form No. 34B and in the statements and other documents accompanying such Annexure shall be sent to the Commissioner alongwith a copy of the said order.";

(iv) in Appendix II,

(a) after Form No. 7, the following Form shall be inserted, namely :—

"FORM NO. 8

(See rule 16)

Declaration under section 158A(1) of the Income-tax Act, 1961 to be made by an assessee claiming that identical question of law is pending before the High Court or the Supreme Court

I.....son/daughter/wife of Shri.....
.....being the*.....of.....
do hereby declare :—

1. That the following question(s) of law** is/are pending in **my case/in the case of.....before the **High Court/Supreme Court on a reference under section 256/257

Supreme Court on an appeal under section 261 in respect of assessment year.....

A copy of the statement of the case and question(s) of law referred to the High Court/Supreme Court is/are enclosed.

**A copy of the judgment of the High Court and the grounds of appeal to the Supreme Court is/are enclosed.

2. That the said question(s) of law **is/are identical with the question(s) of law arising in **my case/in the case of.....in respect of the assessment year.....which is pending before***.....

3. That if the*** .. agrees to apply to the case referred to in paragraph 2 above the final decision on the question of law in the case referred to in paragraph 1 above, **I/the assessee mentioned in paragraphs 1 and 2 above, shall not raise the said question(s)

of law in the case referred to in paragraph 2 above in appeal before any appellate authority or for a reference before the High Court under Section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(Signature of the declarant)

Permanent Account No. _____

Address of the assessee _____

VERIFICATION

I, ... do hereby declare that to the best of my knowledge and belief what is stated above is correct, complete and is truly stated

I further declare that I am making the declaration in my capacity as and that I am competent to make this declaration and verify it.

Verified today the day of 19

Place... _____

Signature of the declarant

Notes :

1. The declaration should be in duplicate when it is furnished to the Appellate Assistant Commissioner or the Commissioner (Appeals) and in triplicate when it is furnished to the Appellate Tribunal.

2. *Mention the capacity in which the declaration is made.

3. **Delete whichever is not applicable.

4. ***Mention the designation of the officer or authority to whom or which the declaration is furnished.

5. Give complete postal address. Where the declarant is not the assessee, also give the complete postal address of the assessee."

(b) for Form No. 34B the following Form shall be substituted, namely :—

"FORM NO. 34B

(See rules 44C and 44CA)

Form of application for settlement of case under section 245C(1) of the Income-tax Act, 1961

IN THE SETTLEMENT COMMISSION _____

*Settlement application No. _____ 19 _____ 19 _____

1. Full name and address of the applicant _____

2. Permanent Account Number _____

3. Status (see Note 4) _____

4. The Commissioner having jurisdiction over the applicant _____

5. Assessment year(s) in connection with which the application for settlement is made _____

6. Proceedings to which application for settlement relates the date from which the proceedings are pending and the income-tax authority before _____

whom the proceedings are pendings (see Note. 6)

7. Where the application made after withdrawing, before the 1st day of October, 1984, any appeal pending before the Appellate Tribunal, indicate the date of the order of the Appellate Tribunal permitting withdrawal of the appeal and attached certified copy of the order.

8. Particulars of the issues to be settled, nature and circumstances of the case and complexities of the investigation invoked (see Note 7)

9. Full and true disclosure of income which has not been disclosed before the Income-tax Officer, the manner in which such income has been derived and the additional amount of income-tax payable on such income (see Notes 9 and 10)

(see Annexure)

Signed (Applicant)

VERIFICATION

I ————— son/daughter/wife of ————— do hereby solemnly declare that to the best of my knowledge and belief, what is stated above and in the Annexure [including the statement(s) and documents accompanying such Annexure] is correct and complete.

I further declare that I am making this application in my capacity as ————— and that I am competent make this application and (designation) to verify it.

Verified today ————— day of ————— 19 —————

Signature (Applicant)

Notes :

1. The application for settlement must be in quintuplicate.
2. The application for settlement must be accompanied by a fee of five hundred rupees. The fee should be credited in a branch of the authorised bank or a branch of the State Bank of India or a branch of the Reserve Bank of India and the triplicate challan sent to the Settlement Commission with the application for settlement. The Settlement Commission will not accept cheques, drafts, hundies, other negotiable instruments.
- *3. The number and year of application will be filled in, in the office of the Settlement Commission.
4. Please state whether individual, Hindu undivided family, company, firm, an association of persons, etc.
5. If the space provided is found insufficient, separate enclosurer may be used for the purpose.
6. In case of assessment proceedings, indicate the designation of the Income-tax Officer/Inspecting Assistant Commissioner (Assesment) before whom the proceedings are pending indicating also the date of service of notice under section 139(2)/section 148 of the Income-tax Act, 1961, or the

date of reopening of the assessment under section 146 of the said Act or, as the case may be, the date of filing of the return under section 139 of the said Act. In case of appellate proceedings, indicate the appellate authority before whom the appeals is filed and the date of filing of the appeal, in case of revision petition indicate the date of filing the revision petition and whether the same is filed within time or not.

8. The application for settlement of a case shall not be allowed to be withdrawn by the applicant.

9. The additional amount of income-tax payable on the income referred to in item 9 should be calculated in the manner laid down in the sub-section (1A) to (1D) of section 245C.

10. The details referred to in item 9 shall be given in the Annexure to this application.

ANNEXURE

STATEMENT CONTAINING PARTICULARS REFERRED TO IN ITEM 9 OF THE APPLICATION UNDER SECTION 245C (1) OF THE INCOME-TAX ACT, 1961

1. Amount of income which has not been disclosed before the income-tax Officer _____

2. Additional amount of Income-tax payable on the said income _____

3. Full and true statement of facts regarding the issues to be settled, including the terms of settlement sought for by the applicant.

4. The manner in which the income referred to in item No. 1 has been derived.

Place _____

Signed (Applicant) _____

Date _____

Note : The Annexure should be accompanied by—

(i) Statement(s) containing computation of total income of the applicant for the assessment year or years to which the application for settlement relates, in accordance with the provisions of the Act ;

(ii) copies of the manufacturing account or trading account or both, as the case may be ; profit and loss account or income and expenditure account or any other similar account, as the case may be, and balance-sheet ; and

(iii) in the case of—

(a) a proprietary business or profession, copies of the personal account of the proprietor ;

(b) a firm or association of persons or body of individuals, copies of the personal accounts of the partners or members thereof, as the case may be ; and

(c) a partner of a firm or a member of an association of persons or body of individuals, copies of the personal account of such partner or member in the firm association of persons or body of individual, as the case may be."

Published in the *Gazette of India (Ext.)*, Part II, Section 3 (ii),
No. 490, dated October 1, 1984.

CENTRAL BOARD OF DIRECT TAXES

S. O. 758 (E).—(*New Delhi, the 1st October, 1984*).—In exercise of the powers conferred by section 46 of the Wealth-tax Act, 1957 (27 of 1957), the Central Board of Direct Taxes hereby makes the following rules further to amend the Wealth-tax Rules, 1957, namely :—

1. (1) These rules may be called the **Wealth-tax (Second Amendment) Rules, 1984**.

(2) They shall come into force on the 1st day of October, 1984.

2. In Wealth-tax Rules, 1957,—

(i) in rule 4A,—

(a) in sub-rule (1), the following words shall be added at the end,
namely :—

“and shall be verified in the manner indicated therein.”;

(b) for sub-rule (2), the following sub-rule shall be substituted,
namely :—

“(2) The application referred to in sub-rule (1), the verification appended thereto, the Annexure to the said application and the statements and documents accompanying the Annexure shall be signed by the person specified in section 15A.”;

(ii) after rule 4A, the following rule shall be inserted, namely :—

“**4AA. Disclosure of information in the application for settlement of cases.**—(1) The Settlement Commission may, while calling for a report from the Commissioner under sub-section (1) of section 22D, forward a copy of the application filed in Form DA (other than the Annexure and the statements and other documents accompanying such Annexure).

(2) Where an order under sub-section (1) of section 22D allowing the application to be proceeded which is made by the Settlement Commission, the information contained in the Annexure to the application in Form DA and in the statements and documents accompanying such Annexure shall be sent to the Commissioner along with a copy of the said order.”;

(iii) after rule 4B, the following rule shall be inserted, namely :—

4C. “Avoidance of Repetitive Appeals.—(1) The declaration referred to in sub-section (1) of section 18C shall be in Form DB and shall be verified in the manner indicated therein.

(2) The declaration and the verification referred to in sub-rule (1) shall be signed by the person specified in section 15A.

(3) The declaration referred to in sub-rule (1) shall,—

(a) in a case where it is furnished to the Appellate Assistant Commissioner or the Commissioner (Appeals), be in duplicate, and

(b) in a case where it is furnished to the Appellate Tribunal, be in triplicate.”;

(iv) for Form DA, the following Form shall be substituted, namely :—

“FORM DA
(See rule 4A and 4AA)

**FORM A—APPLICATION FOR SETTLEMENT OF CASE UNDER
SECTION 22C(1) OF THE WEALTH-TAX ACT, 1957**

IN THE SETTLEMENT COMMISSION_____

*Settlement application No. _____ 19____ 19____

1. Full name and address of the applicant _____
2. Permanent Account Number _____
3. Status (See Note 4) _____
4. The Commissioner having jurisdiction over
the applicant _____
5. Assessment year(s) in connection with
which the application for settlement is made _____
6. Proceedings to which application for settle-
ment relates, the date from which proceedings are
pending and the wealth-tax authority before whom
the proceedings are pending (See Note 6) _____
7. Where the application is made after with-
drawing, before the 1st day of October, 1984,
any appeal pending before the Appellate Tribunal,
indicate the date of the order of the Appellate
Tribunal permitting withdrawal of the appeal and
attach a certified copy of the order. _____
8. Particulars of the issues to be settled,
nature and circumstances of the case and compl-
exities of investigation involved (See Note 7) _____
9. Full and true disclosure of wealth which
has not been disclosed before the Wealth-tax Officer,
the manner in which such wealth has been derived
and the additional amount of wealth-tax payable
on such wealth (See Notes 9 and 10)

(See Annexure)

Signed (Applicant)

VERIFICATION

I, _____ son/daughter/wife of _____
do hereby solemnly declare that to the best of my knowledge and belief,
what is stated above and in the Annexure [including the statement(s) and
documents accompanying such Annexure] is correct and complete.

I further declare that I am making this application in my capacity
as _____ and that I am
(designation)

competent to make this application and to verify it.

Verified today the _____ day of _____ 19____

Place _____

Signed (Applicant)

Notes :

1. The application for settlement must be in quintuplicate.
2. The application for settlement must be accompanied by a fee of
five hundred rupees. The fee should be credited in a branch of the autho-
rised bank or a branch of the State Bank of India or a branch of the Re-
serve Bank of India and triplicate challan sent to the Settlement Commis-

sion with the application for settlement. The Settlement Commission will not accept cheques, drafts, hundies or other negotiable instruments.

*3. The number and year of application will be filled in, in the office of the Settlement Commission.

4. Please state whether individual, Hindu undivided family, or a company.

5. If the space provided is found insufficient, separate enclosures may be used for the purpose.

6. In case of assessment proceedings, indicate the designation of the Wealth-tax Officer/Inspecting Assistant Commissioner (Assessment) before whom the proceedings are pending indicating also the date of service of notice under section 14(2)/section 17 of the Wealth-tax Act, 1957, or as the case may be, the date of filing of the return under section 14 of the said Act. In case of appellate proceedings, indicate the appellate authority before whom the appeal is filed and the date of filing of the appeal. In case of revision petition, indicate the date of filing the revision petition and whether the same is filed within time or not.

7. Full details of uses for which application for settlement is made, the nature and circumstances of the case and complexities of the investigation involved must be indicated against item 8. Where the application relates to more than one assessment year these details should be furnished for each assessment year.

8. The application for settlement of a case shall not be allowed to be withdrawn by the applicant.

9. The additional amount of wealth-tax payable on the wealth referred to in item 9 should be calculated in the manner laid down in sub-section (1A) to (1D) of section 22C.

10. The details referred to in item 9 shall be given in the Annexure to this application,

ANNEXURE

Statement Containing Particulars Referred to in Item 9 of the Application under section 22C(1) of the Wealth-Tax Act, 1957

1. Wealth which has not been disclosed before the Wealth-tax Officer.

2. Additional amount of wealth-tax payable on the said wealth.

3. Full and true statement of facts regarding issues to be settled including the terms of settlement sought for by the applicant.

4. The manner in which the wealth referred to in item No. 1 has been derived.

Place :

Signed (Applicant)

Date :

Note : The Annexure should be accompanied by—

(i) a statement(s) containing computation of net wealth of the applicant for assessment year or years to which the application for settlement relates, in accordance with the provisions of the Act ; and

(ii) a detailed statement of assets (movable and immovable) and debts, located in India and outside, as on the valuation date.

(v) after Form DA, the following Form shall be inserted namely:—

"FORM DB

(See rule 4C)

Declaration under section 18C(1) of the Wealth-tax Act 1957 to be made by an assessee claiming that identical question of law is pending before the High Court or the Supreme Court.

I.....son/daughter/wife
(Name in full and block letters)
of Shri ... being the*.....of
do hereby declare :—

1. That the following question(s) of law**is/are pending in **my case/ in the case of ... before the **High Court/Supreme Court on an reference under/Supreme Court on an appeal under

section 27

— in respect of the assessment year

section 29

A copy of the statement of the case and the question(s) of law referred to the High Court/Supreme Court is/are enclosed.

**
A copy of the judgement of the High Court and grounds of appeal to the Supreme Court is/are enclosed.

2. That the said question(s) of law**if/are identical with the question(s) of law arising in **my case/in the case of ... in respect of the assessment year ... which is pending before***

3. That if the*** ... agrees to apply to the case referred to in paragraph 2 above the final decision on the question of law in the case referred to in paragraph 1 above, **I/the assessee mentioned in paragraph 1 and 2 above, shall not raise the said question(s) of law in the case referred to in paragraph 2 above in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

.....
Signature of the declarant
Permanent account No.
Address of the assessee

.....
Verification

I, ... do hereby declare that to the best of my knowledge and belief what is stated above is correct, complete and is truly stated.

I further declare that I am making the declaration in my capacity as ... and that I am competent to make this declaration and verify it.

Verified today, the... day of ... 19.....
Place

Signature of the declarant

Notes :

1. The declaration should be in duplicate when it is furnished to the Appellate Assistant Commissioner or the Commissioner (Appeals) and in triplicate when it is furnished to the Appellate Tribunal.

2. *Mention the capacity in which the declaration and verification is made.

3. **Delete whichever is not applicable.

4. ***Mention the designation of the officer or authority to whom or which the declaration is furnished.

5. Give complete postal address. Where the declarant is not the assessee, also give the complete postal address of the assessee."

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 417, dated August 30, 1984,

MINISTRY OF COMMERCE

S. O. 663 (E).—(*New Delhi, the 30th August, 1984*).—In exercise of the powers conferred by section 48 of the Coffee Act, 1942 (7 of 1942) the Central Government hereby makes the following rules further to amend the Coffee Rules, 1955, namely :—

1. (1) These rules may be called the **Coffee (Second Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Coffee Rules, 1955 in rule 13, for sub-rule (1) the following shall be substituted, namely :—

"(1) The Board may appoint every year the following Standing Committees and may appoint such other Committees as the Board deems necessary to exercise such powers and discharge such functions as may be delegated to it under these rules, namely :—

(a) an Executive Committee consisting of :—

(i) the Chairman who shall be the ex-officio Chairman of the Committee ;

(ii) the Vice-Chairman ;

(iii) the member representing the Government of Karnataka ;

(iv) two of the three members representing the Governments of Tamil Nadu, Kerala and Andhra Pradesh, sitting on the Committee by rotation for each year beginning with the representatives of the Governments of Tamil Nadu and Kerala ;

(v) an eminent scientist from a Research Institute or an Agricultural University or an eminent personality in Marketing, Management or Promotion of coffee ;

(vi) five other members appointed by the Board by election of whom one shall be a representative of the interests of coffee growing State (other than 4 members from coffee growing States mentioned in rule 3(2) (a), one representative of labour and not more than two being representatives of growers.

(b) a Propaganda Committee consisting of :—

(i) the Chairman who shall be the ex-officio Chairman of the Committee ;

(ii) the Vice-Chairman ;

(iii) the member representing interests of manufactures of Instant Coffee ; and

(iv) five other members appointed by the Board by election of whom one shall represent the interests of Consumers, one represent Trade and one represent labour and two members to represent the growers.

Provided that the Director of Propaganda shall attend all meetings of the Propaganda Committee and participate in its proceedings but shall have no right to vote.

(c) A Marketing Committee consisting of :—

(i) the Chairman who shall be the ex-officio Chairman of the Committee ;

(ii) the Vice-Chairman ;

(iii) the two members representing Curing Establishments ;

(iv) two members representing the Consumers ;

(v) the member representing the manufactures of Instant Coffee ;

(vi) one member who shall be an eminent scientist from a Research Institute or an Agricultural University or an eminent personality in Marketing, Management or Promotion of coffee ;

(vii) nine other members appointed by the Board by election, of whom six shall be representatives of growers/State Plantation Corporations and two being representatives of coffee trade and one being a representative of labour.

Provided that the Chief Coffee Marketing Officer shall attend all meetings of the Marketing Committee but shall have no right to vote.

(d) a Research Committee consisting of :—

(i) the Chairman who shall be the ex-officio Chairman of the Committee ;

(ii) the Vice-Chairman ;

(iii) the member representing the Government of the State Karnataka ;

(iv) the member representing the Government of the State of Tamil Nadu ;

(v) the member representing the Government of the State of Kerala ;

(vi) the member representing the Government of the State of Andhra Pradesh ;

(vii) one of the members representing the interests of coffee growing States other than the States of Karnataka, Tamil Nadu, Kerala and Andhra Pradesh to be appointed by the Board by election ;

(viii) seven other members appointed by the Board by election, of whom three shall be from the State of Karnataka ;

Provided that the Director of Research shall attend all meetings of the Committee and participate in its proceedings but shall have no right to vote.

(e) a Development Committee consisting of :—

(i) the Chairman who shall be the ex-officio Chairman of the Committee ;

(ii) the Vice-Chairman ;

(iii) a member representing the interests of Coffee growing States other than Andhra Pradesh, Karnataka, Kerala and Tamil Nadu, to be appointed by the Board by election ;

(iv) four members representing small growers to be appointed by the Board by election ;

(v) two members representing large growers to be appointed by the Board by election ;

(vi) the member representing the Government of Andhra Pradesh ;

Provided that the Development Officer and Director of Research shall be invited to attend all meetings of Committee and participate in all its proceedings but shall have no right to vote.

(f) a Coffee Quality Committee consisting of :—

(i) the Chairman who shall be the ex-officio Chairman of the Committee ;

(ii) the Vice-Chairman ;

(iii) five members to be appointed by the Board by election, of whom one shall represent the interest of coffee curing establishments one to represent the interest of coffee trade and three to represent the coffee growers ;

(iv) the member representing interest of manufacturers of Instant Coffee.

Provided that the Chief Coffee Marketing Co-opted Officer and Director of Research Members shall be invited to attend all meetings of the Coffee Quality Committee and participate in its proceedings but shall have no right to vote.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 594, dated December 3, 1984

MINISTRY OF RAILWAYS

S. O. 900(E).—(*New Delhi, the 24th November, 1984*).—In exercise of the powers conferred by Section 821 of the Indian Railways Act, 1890 (9 of 1890) the Central Government hereby makes the following rules further to amend the Railway Accidents (Compensation) Rules, 1950, namely :—

1. (1) These rules may be called the **Railways Accidents (Compensation) (Second Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Railway Accidents (Compensation) Rules, 1950 :—

(i) in sub-rule (2) of rule 4, after the words and figure 'under rule 3 as an ad-hoc Claims Commissioner' the following shall be inserted, namely :—

"Such appointment shall be made within two months from the date of occurrence of the accident. The period of two months may be extended by another one month for reasons to be recorded in writing by the Central Government."

(ii) in sub-rule (1) of rule 11, after clause (v) the following clause shall be inserted, namely :—

"(vi) the relationship of the claimant(s) with the deceased."

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 644, dated December 31, 1984

MINISTRY OF LABOUR AND REHABILITATION

S. O. 982(E).—(*New Delhi, the December 31, 1984*).—In pursuance of

the notification of the Government of India in the Ministry of Home Affairs No. 529(E), dated 22nd July, 1983, the Central Government hereby appoints the 31st December, 1984, as the date on which the provisions of the Fatal Accident Act, 1855 (4 of 1855) and the Employers' Liability Act, 1938 (24 of 1938) shall come into force.

Published in the *Gezette of India*, (Ext.), Part II, Section 3(ii),
No. 642, dated December 31, 1984

MINISTRY OF HOME AFFAIRS

S. O. 930(E).—(*New Delhi, 31st December, 1984*).—In pursuance of clause (d) of Section 8 of Foreign Contribution (Regulation) Act, 1976 (49 of 1976), the Central Government hereby makes the following regulations to amend the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978, namely :—

1. These regulations may be called the **Foreign Contribution (Acceptance or Retention of Gift or Presentations) Amendment Regulations, 1984**.

2. In the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 for sub-regulation (6) of regulation 3, the following shall be substituted, namely :—

“(6) If any question arises relating to the assessment so made under sub-regulation (5) it shall be referred to the Central Government who shall decide the same.”

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 624, dated December 26, 1984

CENTRAL BOARD OF DIRECT TAXES

S. O. 958(E).—(*New Delhi, the 26th December, 1984*).—In exercise of the powers conferred by section 46 of the Wealth-tax Rules, 1957, (27 of 1957), the Central Board of Direct Taxes hereby makes the following rules further to amend Wealth-tax Rules, 1957, namely :—

1. These rules may be called the **Wealth-tax (Fourth Amendment) Rules, 1984**.

(2) They shall come into force on the 1st January, 1985.

2. In rule 8F, of the Wealth-tax Rules, 1957, in sub-rule (2), for the words “within such time as may be specified by the Board”, the words “within thirty days of the receipt of the said charge-sheet and the statement or within such further time as the Board may, on an application made by that person allow in this behalf”, shall be substituted.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 606, dated December 11, 1984

MINISTRY OF COMMERCE

S. O. 939(E)/No. E(C)O, 1977/AM(295).—(*New Delhi, the 11th December, 1984*).—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely :—

1. This Order may be called the **Exports (Control) Fifteenth Amendment Order, 1984**.

2. In the Exports (Control) Order, 1977 in OGL-4 of Schedule III, the Existing entry appearing against S. No. 32 shall be renumbered as S. No. 32(i) and the following shall be added thereafter :—

S. No	Item	S. No. as in Part "B" of Schedule I	Canalising Agency
1	2	3	4
32(ii)	Iron Ore Pellets manufactured by Kudremukh Iron Ore Co. Ltd. (KICCL) out of Concentrates produced by it.	B. 45(ii)	Kudremukh Iron Ore Co. Limited (KIOCL).

Published in the *Gazette of India, Ext.*, Part II, Section 3(ii),
No. 549, dated November 14, 1984

MINISTRY OF FINANCE

S. O. 837—(E):—(*New Delhi, the 14th November, 1984*)—In exercise of the powers conferred by sub-section (3) of section 1 of the **Chit Funds Act, 1982** (40 of 1982), the Central Government hereby appoints the 6th day of November, 1984, as the date on which the provisions of the said Act shall come into force in the **State of Sikkim**

Published in the *Gazette of India, Ext.*, Part II, Section 3 (ii), No.
539, dated November 7, 1984

MINISTRY of FINANCE

S. O. 829—(E):—(*New Delhi, the 7th November, 1984*).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax rules, 1962, namely:—

1. (1) These rules may be called the **Income-tax (Fourth Amendment) Rules, 1984**.

(2) They shall come into force on the 1st day of April, 1985.

2. In the Income-tax rules, 1962, in rule 90,—

(i) in clause (a), for the word "one-fifth", the word "one-third" shall be substituted;

(ii) In clause (B), for the word "one-third", the word "one-half" shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 52, dated December, 29, 1984

MINISTRY OF ENERGY

G. S. R. 1315.—(*New Delhi the 18th December, 1984*).—In exercise of the powers conferred by section 3E read with sections 6 and 7 of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948),

the Central Government hereby makes the following scheme further to amend the Coal Mines Family Pension Scheme, 1971, namely :—

1 (1) This Scheme may be called the **Coal Mines Family Pension (Second Amendment) Scheme, 1984.**

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2 In the Coal Mines Family Pension Scheme, 1971,—

(a) in paragraph 2, to clause (f), the following shall be added, namely :—

“and includes service for which contributions under this Scheme being less than fifty paise, nothing is payable by virtue of sub-paragraph (3) of paragraph 7”.

(b) in paragraph 7, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely :—

“(3) Each contribution to be diverted [to the Family Pension Fund under sub-paragraph (1) shall be calculated to the nearest rupee, fifty paise or more to be counted as the next higher rupee and fraction of a rupee less than fifty paise to be ignored”.

(c) to paragraph 8, the following proviso shall be added, namely :—

“Provided that where in a week or fortnight or month no contribution to the Family Pension Fund is payable by a member because of rounding off under sub-paragraph (3) of paragraph 7, the week or fortnight or month, as the case may be, shall be deemed for the purpose of this paragraph, as period for which there is contribution to the Family Pension Fund.”

(d) for paragraph 19C, the following shall be substituted, namely:—

“19C. *Rounding off of the benefits*—All items of benefits shall be calculated to the nearest rupee, fifty paise or more to be counted as the next higher rupee, and fraction of a rupee less than fifty paise to be ignored.”

Published in the *Gazette of India*, Part II, Section 3 (i),

No. 52, dated December, 29, 1984

MINISTRY OF ENERGY

G S R. 1312.—(New Delhi, the 18th December, 1984).—In exercise of the powers conferred by section 3 read with sections 6 and 7 of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), the Central Government hereby makes the following Scheme further to amend the Coal Mines Provident Fund Scheme, 1948, namely :—

1. (1) This Scheme may be called the **Coal Mines Provident Fund (Second Amendment) Scheme, 1984.**

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. In the Coal Mines Provident Fund Scheme, 1948 :—

(a) after paragraph 27A, the following paragraph shall be inserted, namely :—

“27B. *Rounding off to the nearest rupee*—Each contribution under paragraphs 27 and 27A shall be rounded off to the nearest rupee treating fifty paise or more as the next higher rupee and ignoring fractions of a rupee less than fifty paise”

(b) in paragraph 60, in sub-paragraph (2), for the word “paise”, the

words "rupee, treating fifty paise or more as the next higher rupee ignoring fractions of a rupee less than fifty paise" shall be substituted ;

(c) in forms I (Revised) P (Revised), U (Revised) X and Y, the columns with the heading 'P' which is meant for paise, wherever it occurs, shall be deleted ;

(d) in form V (Revised) in columns 5, 6, 7, and 8, sub-heading "Rs" shall be added.

Published in the *Gazette of India*, Part II, Section 3 (i),

No. 39, dated 29th September, 1984

MINISTRY OF LABOUR & REHABILITATION

G. S. R. 1040.—(*New Delhi the 12th September, 1984*).—Whereas certain draft rules further to amend the Industrial Employment (Standing Orders) Central Rules, 1946, were published as required by sub-section (1) of Section 15 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) at page 929 of the *Gazette of India*, in Part II, Section 3, sub section (1) dated the 14th April, 1984, under the notification of the Ministry of Labour No. GSR. 396 dated the 27th March, 1984, inviting objections and suggestions from all persons likely to be affected thereby on a before the expiry of a period of 45 days from the date of publication of the said notification in the Official Gazette ;

And whereas the said Gazette was made available to the public on the 21st April, 1984 ;

And whereas the objections and suggestions received from the public on the said draft have been duly considered ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 15 of the said Act, the Central Government hereby make the following rules further to amend the Industrial Employment (Standing Orders) Central Rules, 1946 namely :—

1. These rules may be called the **Industrial Employment (Standing Orders) Central (Amendment) Rules, 1984**.

2. In the Industrial Employment (Standing Orders) Central Rules, 1946, in Scheme 1-B, under heading "(3) Age of retirement", for figure "60" figure "58" shall be substituted.

Published in the *Gazette of India*, Part II, Section 3 (i),

No. 36, dated 8th September, 1984

MINISTRY OF LABOUR

G. S. R. 954.—(*New Delhi the 22nd August, 1984*).—In exercise of the powers conferred by section 5, read with sub-section (1) of section 7 of the Employees Provident Funds and Miscellaneous Provisions Act 1952 (19 of 1952), the Central Government hereby makes the following scheme further to amend the Employees' Provident Funds Scheme 1952, namely :—

1. (1) This scheme may be called the **Employees' Provident Funds (Amendment) Scheme 1984**.

2. In the Employee's Provident Funds Scheme 1952, in paragraph 68-B,—

(1) for the word 'advance' wherever it occurs, the word "withdrawal", shall be substituted ;

(2) in clause (b) of sub-paragraph (1) of paragraph 68-B, the words, "provided the said house flat to be purchased is new and unlive d one", shall be deleted ;

(3) Explanation 2 below sub-paragraph (1) shall be deleted ;

(4) in clause (c) of sub-paragraph (1) after the words "on such site", the words, "or for purchase of a house/flat in the joint name of the member and the spouse under clause (a) and (b) above", shall be added ;

(5) in sub-paragraph (6), for the words and figure", in sub-paragraph (7), "the words and figures, "in sub-paragraph (7) and (7A)" shall be substituted ;

(6) after sub-paragraph (7) the following new sub-paragraph shall be inserted, namely :—

"7A. A further advance equivalent to the amount of difference between the amount of advance admissible to a member under sub-paragraph (2) above as on the date of fresh application and the amount of advance that was drawn by a member under this paragraph any time during 6 years preceding 3-10-81, may be granted to such a member (i) who had availed the earlier advance for purchase of a dwelling site and has no proposal to construct a dwelling site and has now proposed to construct a dwelling house on the land so purchased or (ii) who had availed the earlier advance for making initial payment towards the allotment/purchase of a house/flat from any agency as referred to in clause (a) of sub-paragraph (1) above and has now proposed to avail an advance for completing the transaction to get the sole ownership of the house/flat so purchased or (iii) who had availed the earlier advance for construction of a house but could not complete the construction in the time due to lack of funds".

(7) in sub-paragraph (7) for the words, "six months", the words, "twelve months", shall be substituted.

Published in the *Gazette of India*, (Ext), Part II, Section 3 (ii),

No. 470, dated December, 13, 1984

MINISTRY OF INFORMATION AND BROADCASTING

G. S. R 814(E).—(*New Delhi, thn 13th December, 1984.*)—In exercise of the powers conferred by section 8 of the Cinematograph Act, 1952 (37 of 1952), the Central Government hereby makes the following rules further to amend the Cinematograph (Certification) Rules, 1983, namely :—

1. (1) These rules may be called the **Cinematograph (Certification) (Third Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Cinematograph (Certification) Rules, 1983, in sub-rule (6) of rule 21,—

(a) in clause (b) the word "and" occurring at the end shall be omitted ;

(b) in clause (c) for the words "court or authority" the words "court or authority and" shall be substituted ;

(c) after clause (c) the following clause shall be inserted, namely :—

"(d) such film shall not be examined by the Board for certification

for public exhibition in India unless the Board is satisfied that the film is validly imported in accordance with the import policy of the Government”.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 467, dated December 7, 1984.

MINISTRY OF FINANCE

G. S. R. 811 (E).—(*New Delhi, the 17th December, 1984.*)—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (12th Amendment) Rules, 1984**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 1944,—

(a) in rule 178, in sub-rule (1),—

(i) in clause (c) for the words “three years”, the words “five years” words shall be substituted ;

(ii) in the Explanation for the words “three years” wherever they occur, the words “five years” shall be substituted.

(b) In Appendix I, in (ii) Specimen Forms in the entries relating to the Central Excise Series No. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 for the words “three years”, wherever they occur, the words “five years” shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 453, dated November 23, 1983

MINISTRY OF FINANCE

G. S. R. 791-(E).—(*New Delhi, the 23rd November, 1984.*)—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (11th Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 1944, in rule 2, in clause (ija) :—

(a) in sub-clause (a), items (ii), (iii) and (iv) shall be omitted.

(b) in sub-clause (c) after item (vii) the following items shall be inserted namely :—

“(viii) the Collector of Central Excise, Ahmedabad ;

(ix) the Collector of Central Excise, Vadodara ;

(x) the Collector of Central Excise, Rajkot”.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 438, dated November 13, 1984

MINISTRY OF WORKS & HOUSING

S. O. 761(E).—(*New Delhi, the 12th November, 1984.*)—In pursuance of sub-section (2) of section 1 of the **Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1984 (35 of 1984)** the Central Government

hereby appoints the date of publication of this notification in the Gazette of India, as the date on which all the provisions of this Act shall come into force.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 54, dated January 31, 1985

MINISTRY OF COMMERCE & SUPPLY

S. O. 70(E)/No. E(C)O, 1977/AM(296).—(*New Delhi, the 31st January, 1985*).—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following order further to amend the Exports (Control) Order, 1977, namely :—

1. This Order may be called the **Exports (Control) First Amendment Order, 1985**.

2. In the Exports (Control) Order, 1977 in Schedule I, in Part 'B' after Serial number 20D and the entry relating thereto, the following serial number, letters and items shall be inserted, namely :—

“20E—Jowar
20F—Ragi”

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 42, dated January 25, 1985

MINISTRY OF INDUSTRY & COMPANY AFFAIRS

S. O. 51(E).—(*New Delhi, the 25th January, 1985*).—In exercise of the powers conferred by clause (g) of section 2 of the **Transformer & Switchgear Limited (Acquisition and Transfer of Undertakings) Act, 1983** (41 of 1983) the Central Government hereby specifies the 25th day of January, 1985, as the specified date for the purpose of section 15 of the said Act.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),
No. 35, dated January 22, 1985

MINISTRY OF INDUSTRY

S. O. 43(E).—(*New Delhi, the 22nd January, 1985*).—In exercise of the powers conferred by section 18G and section 25 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following order further to amend the Cement Control Order, 1967, namely :—

1. (1) This Order may be called the **Cement Control (Amendment) Order, 1985**.

(2) It shall come into force with immediate effect.

2. In the Cement Control Order, 1967—
after sub-clause (2) of clause 10 and before Explanation the following proviso shall be inserted, namely :—

“Provided that the total charges to be fixed in respect of items (ii), (iii) and (iv) shall not exceed R. 50.00 per tonne.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 46, dated February 1, 1985

MINISTRY OF FINANCE

G. S. R. 65(E).—(*New Delhi, the 1st February, 1985*) —In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (Amendment) Rules 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In sub-rule (1) of rule 13 of the Central Excise Rules, 1944, for the words, letters and figures "Goods other than those falling under item Nos. 5 and 12 of the First Schedule to the Act", the words, letters, figures and brackets "Goods other than those falling under sub-item (2), hereof made from duty paid loose tea, 5 and 12 of the First Schedule to the Act" shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 44, dated February 1, 1985

MINISTRY OF FINANCE

G. S. R. 63(E).—(*New Delhi, the 1st February, 1985*).—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (2nd Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 1944, in rule 56-A, in sub-rule (3),—

(i) in clause (iii), in sub-clause (b), the words "or for repairs" shall be omitted :

(ii) in clause (viii) for the words "Central Government" the word "Collector" shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 39, dated January 30, 1985.

MINISTRY OF FINANCE

G. S. R. 54 (E).—(*New Delhi, 30th January, 1985*).—In exercise of the powers conferred by sub-section (1) of section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules to amend the Custom (Appeals) Rules, 1982, namely :—

1. (1) These rules may be called the **Customs (Appeals) Amendment Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Customs (Appeals) Rules, 1982 (hereinafter referred to as the said rules), after Chapter III, the following Chapter shall be inserted, namely :—

“CHAPTER III-A”**Revision by Central Government**

8A. *Form of revision application to the Central Government :—*1. (1) A revision application under sub-section (1) of Section 129DD to the Central Government shall be in Form No. CA-8.

(2) The grounds of revision application and the form of verification, as contained in Form CA-8, shall be signed by the person specified in sub-rule (2) of rule 3.

(3) Where the revision application is signed by the authorised representative of the applicant, the document, authorising such representative to sign and appear on behalf of the applicant shall be appended to such revision application.

(4) The revision application in Form No. CA-8 shall be filed in duplicate and shall be accompanied by an equal number of copies of the following documents, namely :—

(i) order passed by the Collector of Customs (Appeals) under section 128A ; and

(ii) decision or order passed by the Customs Officer which was the subject-matter of the order referred to in clause (i).

8B. *“Procedure for filing revision application:—* (1) The revision application in Form CA-8 shall be presented in person, to the Under Secretary, Revision Applications, Ministry of Finance, Department of Revenue, Central Secretariat, New Delhi-1, or sent by registered post addressed to the said Under Secretary.

(2) The revision application sent by registered post under sub-rule (1) shall be deemed to have been submitted on the date on which it is received in the office of the said Under Secretary”.

(3) In the Form appended to the said rules, after Form 8, the following Form shall be inserted, namely :—

“FORM NO. CA-8**Form of Revision Application to the Central Government Under Section 129DD of the Customs Act, 1962.**

1. Revision Application No. of.....
2. Name and address of the applicant
3. Designation and address of the authority passing the order against which the revision application is filed.
4. The number and date of the order:
5. Date of communication of the order.
6. Designation and address of the authority against which the order has been passed by the Collector (Appeals)
7. Address to which notice/communications may be sent to the Applicant.
8. Whether duty of penalty, if any, has been deposited (a copy extract of the challan/account current, as the case may be, under which the deposit is made, shall be furnished.
9. Reliefs claimed in application :

Statement of facts
Grounds of appeal.

- (i)
(ii)
(iii)

etc.

Signature of authorised, agent if any.

Signature of the applicant.

VERIFICATION

I,....., the applicant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today, the..... day of 9 ...

NOTES :

(1) The grounds of application and the form of verification shall be signed by the applicant in accordance with the provisions of sub-rule (2) of rule 8A.

(2) The application including the statement of facts and the grounds of application, shall be filed in duplicate and shall be accompanied by an equal number of copies of the orders against which the application is filed and also the decision/order of the authority against which Collector of Customs (Appeals) passed the order.

(3) The form of application shall be in English (or Hindi) and shall set forth, consisely and under distinct heads, the grounds of application without any argument or narrative and such grounds should be numbered consecutively.

(4) The fee of rupees two hundred required to be paid under the provisions of the Act shall be paid under T. R. 6 challan and the duplicate copy of the T. R. 6 challan shall be filed along with the application for revision.

(5) Where the application is signed by the authorised representatives of the applicant, the document authorising the representative to sign and appear on behalf of the applicant shall be appended to the application".

Published in the *Gazette of India*, Part II, Section 3(i) No. 2, dated January 12, 1985

MINISTRY OF FINANCE

G. S. R. 45-(New Delhi, 7th January, 1985).—In exercise of the powers conferred by sections 11-C, 11-D, 11-F, and 11-G of the Customs Act, 1962 (52 of 1962) the Central Government hereby makes the following rules further to amend the Notified Goods (Prevention of illegal Import) Rules, 1969, namely:—

1. (1) These rules may be called the **Notified Goods (Prevention of Illegal Import) Amendment Rules, 1984.**

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Notified Goods (Prevention of illegal Import) Rules, 1969, in rule 9, in sub-rule (2), for clause (b), the following clause shall be substituted, namely:—

“(b) In addition to the identifying particulars mentioned in clause (a) the particulars mentioned against each of the following articles shall also be given in respect of each such article:—

(i) watches-gents or ladies; hand-winding, automatic quartz or electronic size; shape; with or without centre second; calender or not; rolled gold, chrome, stainless steel palladium or plastic; luminous dial or not; type of numerals on dial; combination type or not;

(ii) watch movements-model; number; calibra; type-hand winding or

- automatic ; calendar or note ;
 (iii) watch dials-calibre; size;
 (iv) watch cases-calibre; size, rolled gold, chrome, stainless steel, palladium or plastic;
 (v) synthetic yarn-variety; denier;
 (vi) metallised yarn-variety; colour; length of yarn;
 (vii) fabrics and sarees-variety of yarn; type of fabrics; colour;
 (viii) knit-wear-variety of yarn; gents, ladies or children size; colour;
 type ;
 (ix) fountain pens, ball -points pens-modal; colour;
 (x) perfumes-quantity of contents per bottle/vial;
 (xi) T. V. Sets-modal; colour or black and white; with or without remote control; screen size; number of channels combination type or not;
 (xii) electronic calculators; modals; with or without printer; combination type or not;
 (xiii) Video Cassette Recorders Video Cassette Players modal; with or without remote control; combination type or not;
 (xiv) video cassette tapes; model; playing time;
 (xv) zip fasteners-length; teeth material; colour ;

Published in the *Gazette of India*, Part II, Section 3(i), No. 2,
 dated January 12, 1985.

MINISTRY OF COMMERCE

G. S. R. 26-(New Delhi, the 31st December, 1984).—In exercise of the powers conferred by section 32, of the Tobacco Board Act, 1975 (4 of 1975) the Central Government hereby makes the following rules further to amend the Tobacco Board Rules, 1976, namely:—

1. (1) These rules may be called the **Tobacco Board (Second Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Tobacco Board Rules, 1976, in rule 30-A

(i) in sub-rule (1) the words "including associated member or co-opted member", shall be omitted.

(ii) sub-rule (2) shall be omitted.

Published in the *Gazette of India*, Part II, Section 3(i),
 No. 1, dated January 5, 1985.

MINISTRY OF LABOUR & REHABILITATION

G. S. R. 19 (New Delhi, 26th January, 1985)—In exercise of the powers conferred by sub-section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) the Central Government hereby makes the following scheme further to amend the Employees Family Pension Scheme, 1971, namely :—

1. (1) This Scheme may be called the **Employees' Family Pension (Amendment) Scheme, 1984.**

(2) This scheme shall come into force on the date of its publication in the Official Gazette.

2. In the Employees Family Pension Scheme, 1971, in Form 2, for the words "signature or left/right hand thumb impression of the member", the following words shall be substituted namely—"signature or left hand thumb impression in case of both female and male member of the fund."

G. S. R. 20.—(*New Delhi, 26th January, 1985.*)—In exercise of the powers conferred by sub-section (1) of section 7 of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) the Central Government hereby makes the following Scheme further to amend the Employees' Provident Funds Scheme 1952, namely :—

1. (1) This Scheme may be called the **Employees Provident Funds (Third Amendment) Scheme, 1984.**

(2) This scheme shall come into force on the date of its publication in the Official Gazette.

2. In the Employees' Provident Funds Scheme, 1952 in Form 1, Form 2, and Form 8, for the words "Signature or left/right hand thumb impression of the member" wherever they occur, the following words shall be substituted namely "signature or left hand thumb impression in case of both female and male members of the fund".

Published in the *Gazette of India, (Ext.)*, Part IV, Section 3(ii),

No. 617, dated December, 21 1984.

CENTRAL BOARD OF DIRECT TAXES

S. O. 951 (E).—(*New Delhi, the 21st December, 1984.*)—In exercise of the powers conferred by section 46 of the Wealth-tax Act, 1957 (27 of 1957), the Central Board of Direct Taxes hereby makes the following rules further to amend the Wealth-tax Rules, 1957, namely :—

1. (1) These rules may be called the **Wealth-tax (Third Amendment) Rules, 1984.**

(2) They shall come into force on the 1st day of April, 1985.

2. In the Wealth-tax Rules, 1957—

(i) rule 8M shall be omitted;

(ii) in Form A, for Annexure VI, the following Annexure shall be substituted, namely :—

"ANNEXURE VI

(See Section B of Part I of this Return)

Statement of movable property (non-business assets) located in India.

S. No.	Description of assets	Value Rs.
(1)	(2)	(3)

1. deposits referred to in sec. 5(1) (xv)
2. Investments referred to in sec. 5(1) (xvi)
3. Government securities referred to in sec. 5(1) (xxii).
4. Shares in Indian companies referred to in sec. 5(1) (xxiii).
5. Debentures referred to in sec. 5(1)(xxix).
6. Units in the Unit Trust of India referred to in sec. 5(1) (xxv).
7. Deposits under the National Deposit Scheme referred to in sec. 5(1) (xxva).
8. Deposits in banks including co-operative banks, etc., referred to in sec. 5(1) (xxvi) and

1	2	3
compulsory deposits made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.		
9. Deposits with financial corporations and public companies referred to in sec. 5(1) (xxvii).		
10. Deposits with the Industrial Development Bank of India referred to in sec. 5(1)(xxviii).		
11. Deposits with any authority referred to in sec. 5(1) (xxviiib).		
12. Shares in a co-operative society referred to in sec. 5(1) (xxviii).		
13. Deposits with a co-operative society, other than a co-operative bank or a co-operative housing society, referred to in sec. 5(1) (xxix).		
14.* Value of assessee's interest as a partner in a partnership firm or a member of an association of persons, in assets of the industrial undertaking belonging to such firm or association referred to in sec. 5(1) (xxxii).		
Total value		
Less : Amount exempt under section 5 (1A) (to the extent not availed of against the value of agricultural lands in Annexure I or II)		
Net value—carried over		
15. (a) Securities, bonds and debentures of local authorities (other than those mentioned in Sl. No. 5)		
(b) Shares (other than those mentioned in Sl. No.4), debentures of bonds of companies.		
16. (a) Moneys lent out by way of loans or advances and interest accrued/due thereon up to the valuation date :		
(b) Any other amounts due to the assessee which remain unpaid.		
(c) Amounts covered by insurance policies which have become due and payable but, not paid.		
(d) Uncashed dividends, interest, etc.		
(e) Moneys in hand or in banks (other than those mentioned in Sl. No. 8)		
17.* Value of assessee's interest as a partner in a partnership firm or a member of an association of persons (not being a co-operative housing society)		
Less : Value of assessee's interest as a partner in a partnership firm or a member of an association		

1	2	3
of persons, in assets of the industrial undertaking belonging to such firm or association referred to in sec. 5(1)(xxxii)		
Net Value		

18. Annuity rights [other than those which are not includible in "assets" under section 2(e) and those exempt under sec. 5(1) (vai) or (vii)]

19. Tools and instruments, etc., to enable the assessee to carry in his profession or vocation (Mention profession or vocation)

Less : Exemption [sec. 5(1)(x)]

20. (a) Furniture, utensils, and other articles, not exempt under sec. 5(1)(viii) (Give details)

(b) Conveyance [vide second proviso and Explanation 2 to sec. 5(1) (viii)]

Description.....

(c) Jewellery (Give details) :

(i) Gold ornaments

(ii) Ornaments made of silver, platinum or any other precious metal or any alloy thereof [Vide Explanation 1(a) to sec. 5(1) (viii)]

(iii) Precious or semi-precious stones [vide Explanation 1(b) to sec. 5(1) (viii)]

21. Value of assessee's right or interest in a policy of insurance to the extent not exempt under sec. 5(1) (vi).

22. Other assets not included in the above item.

TOTAL VALUE taken to Section B [column (3)] of the Part I of this Return.

Notes :

1.* Give Details.

2.** Where the return relates to the assessment year 1976-77 or any earlier assessment year,—

(i) The amount representing the value of any share in a closely held company deemed to be an "under asset" under rule 4 in Paragraph B of Part I of the Schedule to the Wealth-tax Act and added in Annexure IV should be shown separately and deducted from the total value in item 11 ;

(ii) the amount deemed to be an "urban asset" under rule 2 in Paragraph B of Part I of the Schedule to Wealth-tax Act and added in Annexure IV should be shown separately and deducted from the net value in item 14.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 473, dated December 28, 1984

MINISTRY OF FOOD & CIVIL SUPPLIES

G. S. R. 817(E).—(*New Delhi, the 20th December, 1984*)—In exercise of the powers conferred by section 9 of the Sugar Development Fund Act, 1982 (4 of 1982), the Central Government hereby makes the following rules to amend the Sugar Development Fund Rules, 1983 :—

1. *Short title and commencement.*—(1) These rules may be called the **Sugar Development Fund (Amendment) Rules, 1984**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 2 of the Sugar Development Fund Rules, 1983 (hereinafter referred to as the said rules) in clause (g), for the word 'Act', the word 'section' shall be substituted.

3. In rule 19 of the said rules,—

(1) sub-rule (5) shall be omitted ;

(2) for sub-rule (7), the following sub-rule shall be substituted, namely :—

“(7) Every occupier of a sugar factory shall insure the buffer stock so set apart, against such risks as may be required by the Bank with which the buffer stock is pledged for the purpose of securing loan, as also from floods where the premises of the sugar undertaking are ordinarily exposed to the risk of floods :

Provided that where the occupier of a sugar factory has not pledged the buffer stock with a Bank, he shall insure the buffer stock against destruction or damage by :—

(a) fire ;

(b) explosion of boiler used for domestic purposes only ;

(c) lightning ;

(d) explosion of gas used for domestic purposes or for lighting, heating in a building not forming part of any gas works at any time ;

(e) floods where the premises of the sugar undertaking are ordinarily exposed to the risk of floods.”

(3) sub-rule (12) shall be omitted.

(4) in sub-rule (14),—

(i) for the words “to the occupier of every sugar factory”, occurring at two places, the words “to every sugar factory” shall be substituted ;

(ii) in clause (a), for the words “quantity of sugar”, the words “or a part thereof” shall be inserted ;

(iii) in clause (b), for the words “by it” the words “the buffer stock” shall be substituted ;

(iv) in clause (c), for the words “maintained it” the words “maintained the buffer stock” shall be substituted ;

(v) in the first proviso,—

(a) after the word “Provided” the word “further” shall be inserted ;

(b) after the words “whichever is less” the words “subject to the condition that where the amount of interest charges actually paid or payable by the sugar undertaking is lower, it shall, where necessary, further be restricted to the amount calculated at the maximum rate of bank interest

fixed by the Reserve Bank of India in this behalf but not exceeding the rate of 18% per annum" shall be added ; and

(vi) before the proviso as so amended the following proviso shall be inserted, namely :—

"Provided that where a sugar factory has not pledged the buffer stock with any scheduled Bank, subsidy on account of storage and insurance charges may be authorised for payment by the Central Government as admissible under sub-rule (15) if the buffer stock has otherwise been sequestered, maintained and insured in accordance with the provisions of this rule";

(5) in sub-rule (16),—

(i) the words "in triplicate" shall be omitted ; and

(ii) after the proviso, the following proviso shall be inserted, namely :—

"Provided further that once the Bank concerned and the State Government Officer concerned have certified payment of additional bank credit to, and deposit thereof by, the sugar undertaking into a separate account, and utilisation of full amount thereof by the sugar undertaking for payment of cane price dues including arrears of cane price, it shall not be necessary to furnish the certificate from the State Government Officer in the subsequent claims so long as no further additional bank credit is received by the sugar undertaking."

4. In Form-I of the said rules, in item 8, the words, brackets and letters "under clause 5(b), (c), (e) and (f) of the Schedule" shall be omitted.

5. Form-IV of the said rules shall be omitted.

6. In Form-V of the said rules,—

(i) the brackets and words "(to be submitted in triplicate)" below the heading shall be omitted,

(ii) in item 5, in the opening, after the words "Additional credit" the brackets and words "(margin money)" shall be inserted;

(iii) after item 5 and the entries relating thereto, the following item and entries shall be inserted, namely :—

"5A. Particulars of the insurance policy under which the buffer stock is insured :—

(1) Name and address of the Insurance Company.

(2) Number of Insurance policy.

(3) Period of Insurance.

(4) Risks covered.

(5) Godown No. (s) where the buffer stock is stored.

(iv) for the table under item 7, the following table shall be substituted namely :—

"Month Tariff value in rupees per quintal"	Sale realisation	
	(a) Quantity disposed of in quintals	(b) Amount of sale realisa- tion in rupees
(i)		
(ii)		
(iii)		

Total :

Average tariff value/weighed average realisation", ...
Rupees per quintal".

(v) in item 8(i), for clause (a) the following clause shall be substituted, namely :—

"(amount of interest actually paid or payable to the bank for the period from— to—;"	Period	Principal amount of advance	Rate of interest	Amount of interest
	Form To			Paid/ Payable

(vi) after item 9, the following item shall be inserted, namely :—

"10. Name of the place nearest to the place of the factory, where the branch of the State Bank of India dealing with the Demand Drafts issue by the Reserve Bank of India is situated";

(vii) in the Declaration after paragraph (2), the following shall be inserted, namely :—

"(3) I hereby declare that all the requirements of rule 19 have been complied with and that if subsequently it is found that any provision of that rule has not been complied with, I undertake to refund to the Central Government such amount of subsidy received by me, as may be required by the Central Government." ;

(viii) at the end of the third alternative forms of verification to be given by the Bank, after the words "arise in future" the following sub-paragraph shall be inserted, namely :—

"Also certified that the information furnished against items 4, 5(a), (b) and (d) and 8(i) (a) is correct"; and

(ix) in the form relating to 'Receipt', after the word "signature" for the brackets and words "(across a revenue stamp on first copy)", the brackets and words "(across revenue stamp)" shall be submitted.

Published in the *Gazette of India*, (Ext.), Part II, Section 3(ii),

No. 618, dated December 21, 1984

CENTRAL BOARD OF DIRECT TAXES

S. O. 952(E).—(New Delhi, the 21st December, 1984).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of

1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income-tax (Fifth Amendment) Rules, 1984**.

(2) They shall come into force on the 1st day of April, 1985.

2. In Appendix II to the Income-tax Rules, 1962,—

(1) in Form No. 1,—

(a) in Annexure B, under the sub-heading “Capital gains relating to short-term capital assets”, the figures “53” occurring against entry “Less” shall be omitted ;

(b) in Note 2, under the sub-heading “Computation of Income”,—

(i) for sub-item (i) of item (b), the following sub-item shall be substituted, namely :—

“(i) amount of municipal taxes borne and actually paid by the owner (excluding amount of such taxes allowed as deduction for the assessment year 1984-85 or any earlier assessment year as accrued liability)—1st proviso and Explanation 2 to section 2. (1)”.

(ii) for item (f), the following item shall be substituted, namely :—

“(f) Irrecoverable rent allowed as deduction in the earlier years but realised during the previous year—section 2-A.” ;

(iii) after item (f) as so substituted, the following item shall be inserted, namely :—

“(g) Net chargeable income from house property being [(a) minus (e)] plus (f)” ;

(c) In Note 3,—

(i) under the heading “(1) General particulars : Business or Profession other than share in firm or association of persons”, in item (vii), the words, figures and letters “and if the accounts are required to be audited under section 44AB, the report of such audit together with the requisite particulars should be attached ;” shall be inserted at the end ;

(ii) under the heading “(2) Computation of assessable profit or loss from business or profession for the previous year”; in item 3,—

(A) sub-item (c) shall be omitted.

(B) sub-items (d) to (u) shall be re-lettered as sub-items (c) to (t) respectively ;

(C) after sub-item (t) as so re-lettered, the following sub-item shall be inserted, namely :—

“(u) amount paid as an employer towards the setting up or formation of, or as contribution to, any fund, trust, etc.— section 40A(9)” ;

(d) in Note 6, under the sub-heading “Computation of Capital Gains”, in items (a), the words, figures and letter “sections 45 and 47A” shall be inserted at the end ;

(2) in Form No. 2,—

(a) in Annexure (C), under the sub-heading “Capital gains relating to short-term capital assets”, the figures “53” occurring against the entry “Less” shall be omitted ;

(b) in Note 1,—

(i) in item (1), after the words “advance of salary”, the words “payment received in respect of any period of leave not availed of”, shall be inserted ;

(ii) in item (3),—

(A) for sub-item (d), the following sub-item shall be substituted, namely :—

“(d) amount in respect of interest on loans advanced by the employer free of interest or at a rate of interest lower than the specified rate of interest—Section 17(2)(vi)” ;

(B) after sub-item (d) as so substituted, the following sub-item shall be inserted, namely :—

“(e) total of items (a), (b), (c) and (d) ;”;

(c) in Note 3,—

(i) Under the heading “(1) General particulars of business or profession”,—

(A) after item (viii), the following item shall be inserted, namely :—

“(ix) if the accounts are required to be audited under section 44AB, report of such audit together with the requisition particulars should be attached” ;

(B) the existing items (ix) and (x) shall renumbered as items (x) and (xi), respectively ;

(ii) in item 3 under the heading “(2) Computation of Assessable Profit-Loss from business or profession for the previous years”,—

(A) sub-item (c) shall be omitted ;

(B) sub-items (d) to (r) shall be re-lettered as (c) to (q) respectively ;

(C) after sub-item (q) as so re-lettered, the following sub-item shall be inserted, namely :—

“(r) amount paid as an employer towards the setting up or formation of, or as contribution to, any fund, trust, etc.—section 40A(9) ;”;

(d) in Note 7,—

(i) in Part I relating to “SELF-OCCUPIED PROPERTY”, under the sub-heading “Computation of Income”,—

(A) for item (b), the following item shall be substituted, namely :—

“(b) amount of municipal taxes borne and actually paid (excluding amount of such taxes allowed as deduction for the assessment year 1984-85 or any earlier assessment year as accrued liability)—1st proviso and Explanation 2 to section 23(1)” ;

(B) for item (1), the following item shall be substituted, namely :—

“(1) irrecoverable rent allowed as deduction in the earlier years but realised during the previous year—sec. 25A”

(C) after item (1) as so substituted, the following item shall be inserted, namely :—

“(m) net chargeable income from self occupied property being [(i) minus (k)] plus (l).”

(ii) in Part II relating to “INCOME FROM OTHER PROPERTY (LET OUT PROPERTY)”, under the sub-heading “Computation of Income”,—

(A) in item (b), for sub-item (i), the following sub-item shall be substituted, namely :—

“(i) amount of municipal taxes borne and actually paid by the owner (excluding amount of such taxes allowed as deduction for the

assessment year 1984-85 or any earlier assessment year as accrued liability) 1st proviso and Explanation 2 to section 23(1) ;”;

(B) or item (f), the following item shall be substituted, namely :—

“(f) irrecoverable rent allowed as deduction in the earlier years but realised during the previous year—section 25A” ;

(C) after item (f) as so substituted, the following item shall be inserted, namely :—

“(g) net chargeable income from other property being [(a) minus (e)] plus (f)” ;

(3) in Form No. 3—

(a) in annexure A,—

(i) in Part I, under the heading “Computation of income from salaries received from Government”, after the words “advance of salary”, the words “payment received in respect of any period of leave not availed of” shall be inserted ;

(ii) in Part II, under the heading “Computation of income from other salaries”—

(A) in item 1, after the words “advance of salary”, the words “payment received in respect of any period of leave not availed of,” shall be substituted.

(B) in item 3,—

(I) after sub-item (c), the following sub-item shall be inserted, namely :—

“(d) Amount in respect of interest on loans advanced by the employer free of interest or at a rate of interest lower than the specified rate of interest—section 17(2)(vi)” ;

(II) for the words, brackets “Total of (a), (b) and (c),” the words, brackets and letters “Total of (a), (b), (c) and (d)” shall be substituted ;

(b) in Annexure C, under the sub-heading “Capital gains relating to short-term capital assets,” the figures “53” occurring against the entry “Less” shall be omitted ;

(c) in Note 5,—

(i) in Part I relating to “SELF-OCCUPIED PROPERTY”, under the sub-heading “Computation of Income,”

(A) for item (b), the following item shall be substituted, namely:—

“(b) amount of municipal taxes borne and actually paid (excluding amount of such taxes allowed as deduction for the assessment year 1984-85 or any earlier assessment year as accrued liability)—1st proviso and Explanation to section 23(1) ;”;

(B) for item (1), the following item shall be substituted, namely :—

“(1) irrecoverable rent allowed as deduction in the earlier years but realised during the previous year section 25A” ;

(C) after item (1) as so substituted, the following item shall be inserted, namely :—

“(m) net chargeable income from self-occupied property being [(i) minus (k)] plus (1).” ;

(ii) in Part II relating to “INCOME FROM OTHER PROPERTY (LET OUT PROPERTY)”, under the sub-heading “Computation of Income”,—

“(i) amount of municipal taxes borne and actually paid by the owner (excluding amount of such taxes allowed as deduction for the assessment year as accrued liability)—1st proviso and Explanation 2 to section 23(1) ;”;

(B) for item (f), the following item shall be substituted, namely :—

“(f) irrecoverable rent allowed as deduction in the earlier year but realised during the previous year—Section 25A ;”;

(C) after item (f) as so substituted, the following item shall be inserted, namely :—

(4) in Form No. 3A,—

(a) in Annexure B, under the sub-heading “Capital gains relating to short-term capital assets”, the figures “53” occurring against the entry “Less” shall be omitted ;

(b) in Annexure C, in Part II, under the heading “Income in respect of which exemption under section 11 is not available by reason of the provisions of section 13” in Question 1, the following words, brackets and letter shall be inserted at the end, namely :—

“Clause (h)... .. *Year/No”;

(c) in Note 2, under the sub-heading “Computation of Income”,—

(i) in item (b), for sub-item (i), the following sub-item shall substituted, namely :—

“(i) amount of municipal taxes borne and actually paid by the owner (excluding amount of such taxes allowed as deduction for the assessment year 1934-85 or any earlier assessment year as accrued liability)—1st proviso and Explanation 2 to section 23(1) ;”;

(ii) for item (f), the following item shall be substituted, namely :—

“(f) irrecoverable rent allowed as deduction in the earlier year but realised during the previous year—section 25A ;”;

(iii) after item (f) as so substituted, the following item shall be inserted, namely :—

“(g) net chargeable income from house property being [(a minus (e)] plus (f).”;

(d) in Note 3,—

(i) under the heading “(1) BUSINESS OR PROFESSION (OTHER THAN SHARE IN FIRM/AOP/BOI)”,—

(A) after item (viii), the following item shall be inserted namely :—

“(ix) if the accounts are required to be audited under section 44AB, the report of such audit together with the requisite particulars should be attached”;

(B) the existing items (ix) and (x) shall be renumbered as items (x) and (xi), respectively ;

(ii) under the heading “(2) COMPUTATION OF ASSESSABLE PROFIT/LOSS FROM BUSINESS OR PROFESSION FOR THE PREVIOUS YEAR”, in item 3,—

(A) sub-item (c) shall be omitted ;

(B) sub-items (d) to (s) shall be re-lettered as (c) to (r) respectively ;

(C) after sub-item (r) as so re-lettered, the following sub-item shall be inserted, namely :—

“(s) amount paid as an employer towards the setting up or formation of, or as contribution to, fund, trust, etc.—section 40A (9) ;”;

(c) in Note 12, under the sub-heading "COMPUTATION OF CAPITAL GAINS", in item (a), the words, figures and letter "—section 45 and 47A" shall be inserted at the end.

Published in the *Gazette of India, (Ext)*, Part II, Section 3(i),
No. 35, dated September 1, 1984

MINISTRY OF LABOUR

G. S. R. 932.—(*New Delhi, the 18th August, 1984*).—Whereas certain draft rules further to amend the Industrial Disputes (Central) Rules, 1957, were published as required by sub-section (1) of section 38 of the Industrial Disputes Act, 1947 (14 of 1947) at pages 612-613 of the Gazette of India, in Part II, Section 3, Sub-section (ii) dated 29th January, 1983 under the notification of the Ministry of Labour No. S. O. 678 dated the 12th January 1983, inviting objections and suggestions from all persons likely to be affected thereby on or before the expiry of a period of forty-five days from the date of publication of the said notification in the Official Gazette. And, whereas the said Gazette was made available to the public on the 4th February, 1983 ;

And, whereas the objections and suggestions received from the public in the said draft have been duly considered ;

And, whereas on the basis of the objections and suggestions received certain changes were incorporated and the draft rules were republished at pages 2870-2871 of the Gazette of India in Part II, Section 3, Sub-section (i) dated the 17th December, 1983 under G.S R. No. 984 dated the 1st December 1983, inviting objections and suggestion from all persons likely to be affected thereby on or before the expiry of 30 days from the date of publication of the said notification in the Official Gazette ;

And, whereas the said Gazette was made available to the public on the 23rd December, 1983 ;

And whereas, the objections and suggestions received from the public on the said draft have been duly considered ;

Now therefore, in exercise of the powers conferred by sub-section (1) of section 38 of the said Act, the Central Government hereby makes the following rules further to amend the Industrial Disputes (Central) Rules, 1957, namely :—

RULES

1. These rules may be called the **Industrial Disputes (Central (Amendment) Rules, 1984**.

2. In the Industrial Disputes (Central) Rules, 1957, for the existing rule 10-B, the following rule shall be substituted, namely :—

"10B. Proceeding before the Labour Court, Tribunal or National Tribunal.—(1) While referring an industrial dispute for adjudication to a Labour Court, Tribunal or National Tribunal, the Central Government shall direct the party raising the dispute to file a statement of claim complete with relevant documents, list of reliance and witnesses with the Labour Court, Tribunal or National Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in the dispute.

(2) The Labour Court, Tribunal or National Tribunal after ascertaining that copies of statement of claim are furnished to the other side by party raising the dispute shall fix the first hearing on a date not beyond

one month from the date of receipt of the order of reference and the opposite party or parties shall file their written statement together with documents, list of witnesses and witnesses within a period of 15 days from the date of first hearing and simultaneously forward a copy thereof to the other party.

(3) Where the Labour Court, Tribunal or National Tribunal as the case may be, finds that the party raising the statement of claim to the opposite party or parties, it shall give direction to the concerned party to furnish the copy to the opposite party or parties and for the said purpose or not and for any other sufficient cause, extend the time limit for filing the statement under sub-rule (1) or written statement under sub-rule (2) by an additional period of 15 days.

(4) The party raising a dispute may submit a rejoinder if it chooses to do so, to the written statements by the appropriate party or parties within a period of fifteen days from the filing of written statement by the latter.

(5) The Labour Court, Tribunal or National Tribunal as the case may be, shall fix a date for evidence within one month from the date of receipt of the statements, documents, list of witnesses, etc which shall be ordinarily within sixty days of the date on which the dispute was referred for adjudication.

(6) Evidence shall be recorded either in Court or affidavit but in the case of affidavit the opposite party shall have the right to cross-examine each of the deponents filing the affidavit. As the oral examination of each witness proceeds the Labour Court, Tribunal or National Tribunal shall make a memorandum of the substance of what is being deposed. While recording the evidence the Labour Court, Tribunal or National Tribunal shall follow the procedure laid down in rule 5 of order XVIII of the First Schedule to the Code of Civil Procedure, 1908.

(7) On completion of evidence either arguments shall be heard immediately or a date shall be fixed for arguments/oral hearing which shall not be beyond a period of fifteen days from the close of evidence.

(8) The Labour Court, Tribunal or National Tribunal, as the case may be, shall not ordinarily grant an adjournments for a period exceeding a week at a time but in any case not more than three adjournments in all at the instance of the parties to the dispute :

Provided that the Labour Court, Tribunal or National Tribunal, as the case may be, for reasons to be recorded in writing, grant an adjournment exceeding a week at a time but in any case not more than three adjournment at the instance of any one of the parties to the dispute.

(9) In case any party defaults or fails to appear at any stage the Labour Court, Tribunal or National Tribunal, as the case may be, may proceed with the reference ex-parte and decide the reference/application in the absence of defaulting party :

Provided that the Labour Court, Tribunal or National Tribunal, as the case may be, may on the application of either party filed before the submission of the award revoke the order that the case shall proceed ex-parte, if it is satisfied that the absence of the party was on justifiable grounds.

(10) The Labour Court, Tribunal or National Tribunal, as the case may be, shall submit its award to the Central Government within one month from the date of oral hearing/arguments or within the period mentioned in the order of reference whichever is earlier.

(11) In respect of reference under section 2-A, the Labour Court, Tribunal or National Tribunal, as the case may be, shall ordinarily submit its awards within the period of three months :

Provided that the Labour Court, Tribunal or National Tribunal may, as and when necessary, extend the period of three months and shall record its reasons in writing to extend the time for submission of the award for another specified period."

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 1, dated January 2, 1985.

MINISTRY OF INDUSTRY

S. O. 1 (E).—(*New Delhi, the 29th December, 1984*).—Whereas the draft of the Automobile Cess Rules, 1984 was published in the *Gazette of India Extraordinary*, Part-II Section 3—Sub-section (ii), dated the 17th May, 1984, with the notification of the Government of India in the Ministry of Industry (Department of Heavy Industry) No. S. O. 932 E, dated the 18th December, 1983, as required by sub-section (1) of the Section 30 of the Industries (Development and Regulation) Act, (1951 65 of 1951), for inviting objections and suggestions from all persons likely to be affected thereby within sixty days from the date on which the *Gazette* containing the said notification was made available to the public ;

And whereas the said *Gazette* was made available to the public on the 11th June, 1984 ;

And whereas the objections and suggestions received from the public on the said proposals have been considered by the Central Government ;

Now, thereof, in exercise of the powers conferred by section 30 of the Industries (Development and regulation) Act, 1951 (65 of 1951,) the Central Government hereby makes the following rules, namely :—

1. *Short title*.—These rules may be called the **Automobile Cess Rules, 1984**.

2. *Definitions*.—In these rules, unless the context otherwise requires :—

(a) 'Act' means the Industries (Development and Regulation) Act, 1951 (65 of 1951) ;

(b) 'Automobile' means motor cars, buses, truck, jeep type vehicles vans, scooters, motorcycles, mopeds, and all other automobiles covered under the sub-heading (5) of heading 7 'Transportation' of the First Schedule to the Act ;

(c) 'Cess' means the cess levied and collected in terms of notification No. S. O. 932 (E), dated 28-12-1983 of Department of Heavy Industry issued under sub-section (1) of section 9 of the Act ;

(d) 'Collector' means the Collector of Central Excise and includes the Additional Collector of Central Excise, the Deputy Collector of Central Excise, Assistant Collector of Central Excise and Superintendent of Central Excise ;

(e) 'Development Council' means the Developments Council for Automobile and Allied Industries established under Section 6 of the Act ;

(f) words and expressions used herein and not defined but defined in the Central Excises and Salt Act, 1944 (1 of 1944) or the rules made there

under, shall have the meaning respectively assigned to them in that Act or the rules.

3. *Application of Central Excises and Salt Act and the rules made thereunder.*—Save as otherwise provided in these rules, the provisions of the Central Excises and Salt Act, 1944 (1 of 1944) and the rules made thereunder including those relating to refund of duty, shall, so far as may, apply in relation to the levy and collection of the cess as they apply in relation to the levy and collection of the duty of excise on manufacture of automobiles under the act and the rules.

4. *Submission of returns.*—(1) Every manufacturer shall submit to the Collector and to the Development Council on or before the 10th of every month a return in the Form specified in the annexure to these rules of all stocks of items of automobiles manufactured or produced in, and removed from his undertaking during the previous month.

(2) If any manufacturer fails to furnish the return within the date specified in sub-rule (1) or furnishes a return which the Collector or the Development Council has reason to believe is incorrect or defective, the Collector may serve notice on the manufacturer calling upon him to produce all or any of his accounts relating to the automobiles manufactured or produced by him.

5. *Proceeds of the cess.*—The proceeds of the cess shall first be credited to the Consolidated Fund of India under the head '038—Union Excise Duties—Cess on Commodities Automobiles', and the Central Government may after due appropriation made by Parliament by law in this behalf, hand over to the Development Council such sums as it may consider necessary from out of such proceeds after deducting therefrom the cost of collection.

6. *Opening of Accounts.*—The amount received by the Development Council under Rule 5 shall be kept in an account with the State Bank of India.

7. *Accounts of the Development Council.*—(1) The Development Council shall maintain proper accounts relating to the amount received by it under Rule 5.

(2) The audited statement of accounts for every financial year, together with auditor's report thereon, shall be submitted to the Central Government.

8. *Budget Estimates of the Development Council.*—(1) The Development Council shall in each year prepare a budget for the ensuing financial year and submit the same for sanction to the Central Government on or before such date as may be specified by the Central Government.

(2) No expenditure shall be incurred until the budget is sanctioned by the Central Government.

(3) The budget shall be prepared in accordance with such instructions as may be issued from time to time by the Central Government.

9. *Prescribed administrative expenses.*—The Development council may utilise a sum, not exceeding 2 per cent of the amount received by it under Rule 5, to meet its expenses on account of office establishment and equipment stationery, postage, telephones, telegrams, telex, wages and allowance of staff employed in the secretariat travel and daily allowance of members, and expenditure connected with holding of Council meetings.

ANNEXURE

(See Rule—4)

Form of Monthly Return to be Submitted under the Automobiles Cess Rules, 1984

Month ending

Name of Factory.....

Address

Opening balance of goods, subject to cess		Goods subject to Cess manufactured		Goods subject to cess removed	
Description	Quantity	Description	Quantity	Description	Quantity
1	2	3	4	5	6

Closing balance		Remarks	
Description	Quantity		
7	8		9

I/We declare that I/We have compared the above shown particulars with the records and books of my/our factory and that they are in so far as I/We can ascertain, accurate and complete.

Date.....

Signature of Manufacturer.

Published in the *Gazette of India, Ext*, Part II, Section 3(i), No. 3,
dated January 1, 1985.

MINISTRY OF HEALTH & FAMILY WELFARE.

G. S. R. 3(E).—(*New Delhi, the 1st January, 1985*).—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955 were published as required by sub-section (1) of section 23 of Prevention of Food Adulteration Act, 1954 (37 of 1954) with the notification of Government of India in the Ministry of Health and Family Welfare (Department of Health) No. O S. R. 332(E) dated the 8th May, 1984 in the *Gazette of India, Ext.*, Part II, Section 3 Sub-Section (i) dated the 8th May, 1984 at pages 1-6, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of ninety days from the date of on which copies of the *Gazette of India* in which the said notification was published, were made available to the public;

And whereas the copies of the *Gazette* were made available to the public on 8th May, 1984.

And whereas the objections and suggestion received from the public on the draft rules have been considered by the Central Government.

Now therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government after consultation with the Central Committee of Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955 namely:—

RULES

1. These rules may be called the **Prevention of Food Adulteration (First Amendment) Rules, 1985**

2. They shall come into force on the date of their publication in the Official Gazette.

2. In the Prevention of Food Adulteration Rules, 1955, in Appendix 'B', in the table below item A, 11. 01. 11, in column 3,—

(A) against the entry "Buffalo Milk" occurring in column 1,—

(i) for the word "Punjab" the following shall be substituted, namely:—

"Meghalaya
Punjab
Sikkim".,

(ii) after the words "Andhra Pradesh", the words, "Arunachal Pradesh" shall be inserted;

(iii) after the words, "Himachal Pradesh", the following shall be inserted, namely:—

"Jammu and Kashmir
Karnataka",

(iv) the words "Madras" and "NEFA" shall be omitted;

(v) for the word "Mysore" the word, "Mizoram" shall be substituted;

(vi) after the words "Rajasthan", the words "Tamil Nadu" shall be inserted;

(B) against the entry "Cow Milk" occurring in column 1,—

(i) after the words "Andhra Pradesh" the words "Arunachal Pradesh" shall be inserted;

(ii) after the words "Himachal Pradesh" the following shall be inserted, namely:—

"Jammu and Kashmir
Karnataka ;"

(iii) the words "Madras" and "NEFA" shall be omitted;

(iv) for the word "Mysore" the words "Meghalaya" shall be substituted

(v) for the word "Rajasthan" the following shall be inserted, namely:—

"Sikkim
Tamil Nadu",

(vi) for the word "Orissa", the following shall be substituted namely:—

"Mizoram
Orissa"

(C) against the entry "GOAT OR SHEEP MILK" occurring in Column 1,—

(i) after the words "Andhra Pradesh" the words "Arunachal Pradesh" shall be inserted;

(ii) after the words "Himachal Pradesh" the following shall be inserted, namely:—

"Jammu and Kashmir
Karnataka",

(iii) the words "Madras" and "NEFA" shall be omitted;

(iv) for the word "Mysore", the following shall be substituted, namely:—

"Meghalaya
Mizoram",

(v) after the word "Rajasthan", the following shall be inserted namely:—

"Sikkim
Tamil Nadu".

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 440, dated November 15, 1984

MINISTRY OF HEALTH & FAMILY WELFARE

G. S. R. 764(E)—(*New Delhi, the 15th November, 1984*).—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955 were published as required by sub-section (1) of section 13 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) with the notification of Government of India in the Ministry of Health and Family Welfare (Department of Health) No. 9(E), dated the 4th Jan., 1984 in the Gazette of India, Ext., Part II, Section 3, Sub-section (i) dated the 5th Jan. 1984 at pages 1—8, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of ninety days from the date on which copies of the Gazette of India in which the said notification was published, were made available to the public;

And whereas the copies of the said Gazette were made available to the public on the 4th January, 1984 and the objections and suggestions received from the public on the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government, after consultation with the Central Committee for Food Standards hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely:—

RULES

1. (1) These rules may be called the **Prevention of Food Adulteration (Third Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette except rules 2, 3, 4, 5, 7(a), 9, 10(b), 14(b), and 14(c) which shall come into force after one year from the date of such publication.

2. In the Prevention of Food Adulteration Rules, 1955, (hereinafter referred to as the said rules) in rule, 26,—

(a) clause (g) shall be omitted;

(b) for the Explanation, the following Explanation shall be substituted, namely:—

"Explanation:—In the preparation of the solution of annatto colour in oil, any edible vegetable oil listed in Appendix 'B' to these rules may be

used either singly or in combination and the name of the oil or oils used shall be mentioned on the label as provided in sub-rule (z) of rule 42."

3. In rule 29 of the said rules,—

(i) for clause (f), the following clause shall be substituted, namely:—

"(f) bottled or canned strawberries, and cherries, bottled or canned peas, preserved or processed papaya fruit, canned tomato juice, fruit syrup, fruit squash, fruit beverage or fruit drink, jam and marmalade";

(ii) clause (l) shall be omitted ;

4. In rule 42 of the rules, after sub-rule (y), the following sub-rule shall be inserted, namely:—

"(z) A package containing annatto colour in vegetable oils shall bear the following label, namely:—

"Annatto colour in oil (Name of oil/oils) used"
--

5. In rule 48-A of the said rule, for clause (vi), the following clause shall be substituted, namely:—

(vi) All food colour, including nature colouring matter and permitted coal-tar food colours, their preparation or mixtures, except saffran and curcumin, shall be sold only under Indian Standards Institution Certification mark."

6. In rule 53 of the said rules,—

(a) clause (i),—

(i) item (e) and entry relating thereto, shall be omitted ;

(ii) after item (k) and entry relating thereto, the following item and entry shall be inserted, namely:—

"(e) edible vegetable oil;"

(b) in clause (ii), in item (e) the word "and" shall be omitted and after item (f) and the entry relating thereto, the following items and entries shall be inserted, namely:—

"(g) Methyl or propyl Parahydroxy-Benzoate.

(h) Propionic acid, including esters or salts thereof.

(i) sodium diacetate, and

(j) sodium, potassium and calcium salts of lactic acid."

7. In rule 55 of the said rules, in the table—

(a) in item No 2. for sub-item (a) and entries relating thereto, the following sub-item and entries shall be substituted, namely:—

"(a) cherries		Sulphurdioxide	2000"
(b) after item 31 and the entries relating thereto, the following items and entries shall be substituted, namely:—			
1	2	3	
"32. (a) Soups (other than canned)	Rulphurdiovide	150	
(b) Dried soups	sulphurdioxide	1500	
(c) Dehydrated soup mix, when packed in containers other than cans	sulphurdioxide	1500	

1	2	3
33. Fruits and vegetable, flakes, powder, figs	Sulphurdioxide	600
34. Flour for baked food	Sodium diacetate or Propionates or Methyl propyl hypoxy Benzoate	2500 3200 500"

8. In part X of the said rules, after rule 55A, the following rule shall be inserted, namely :—

"55B. *Restriction on use of nitrate and nitrite.*—No nitrate or nitrite shall be added to any infant food."

9. After Part XI of the said rules, the following Part shall be inserted, namely :—

PART XIA—CROP CONTAMINANTS AND NATURALLY OCCURRING TOXIC SUBSTANCES

57-A. *Crop contaminants.*—(1) Crop contaminant means any substance not intentionally added to food, but which gets added to articles of food in the process of their production (including operations carried out in crop husbandry, animal husbandry and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of articles of such food as a result of environmental contamination.

(2) No article of food specified in column (2) of the Table below shall contain any crop contaminant specified in the corresponding entry in a column (1) thereof in excess of quantities specified in the corresponding entry in column (3) of said Table :

Name of the contaminants	Article of Food	mg/kg
(1)	(2)	(3)
Aflatoxin	All articles of food	0.03

57-B-NATURALLY OCCURRING TOXIC SUBSTANCES

The toxic substance specified in column (1) of the Table below, which may occur naturally in any article of food, shall not exceed the limit specified in the corresponding entry in column (2) of the said Table :—

TABLE

Name of substance	Maximum limit
(1)	(2)
Agaric acid	100 ppm
Hydrocyanic acid	5 ppm
Hypericine	1 ppm
Saffrole	10 ppm

10. In rule 59 of the said rules,—

(a) in the first proviso for item 5 and the entries relating thereto, the following item and entries shall be substituted, namely :—

“5-As cropyl Palmitate 0.02 per cent”.

(b) in the fifth proviso, the word, brackets and letters “and butylated hydroxytoluene (BHT) either singly or in combination” shall be omitted.

11. In rule 62 of the said rules, for the proviso, the following proviso shall be substituted, namely :—

“Provided that table salt, onion powder, garlic powder, fruit powder and soup powder may contain the following anticaking agents in quantities not exceeding 2.0 per cent, either singly or in combination, namely :—

(1) carbonates of calcium and magnesium.

(2) phosphate of calcium and magnesium

(3) silicates of calcium, magnesium, aluminium or sodium or silicon dioxide.

(4) myristates, palmitates or stearates of aluminium, ammonium calcium potassium or sodium.”

12. In part XIII of the said rules,—

(a) for the heading, the following heading shall be substituted, namely :—

“PART-XIII-FLAVOURING AGENTS AND RELATED SUBSTANCES”

(b) for rules, 64, 64A, 64AA and 64B, the following rules shall be substituted, namely :—

“64—solvent in flavour—Diethylene Glycol and Monoethylether shall not be used as solvent in flavours.

64-A. *Use of anti-oxidants, emulsifying and stabilising agents and food preservatives in flavour.*—The flavouring agents may contain permitted anti-oxidants, emulsifying and stabilising agents and food preservatives.

64-B. *Use of monosodium glutamate.*—Monosodium glutamate may be added to an article of food provided the total glutamate content of the ready-to-serve food does not exceed 1 per cent. It shall not be added to any food for use by the infant below twelve months.”

13. After Part XV of the said rules, the following Part shall be inserted, namely :—

“PART XVI-SEQUESTERING AND BUFFERING AGENTS
(ACIDS, BASES AND SALTS)

70. *Definition of sequestering agents.*—The sequestering agents are substances which prevent adverse effect of metals catalysing the oxidative breakdown of foods forming chelates ; thus inhibiting decolourification, off taste and rancidity.

71. *Definition of buffering agents.*—Buffering agents are materials used to counter acidic and alkaline changes during storage or processing steps, thus improving the flavour and increasing the stability of foods.

72. *Restrictions on the use of sequestering and buffering agents.*—Unless otherwise provided in these rules the sequestering and buffering agents specified in column (1) of the Table below, may be used in the groups of food specified in the corresponding entry in column (2) of the said table, in concentration not exceeding the proportions specified in the corresponding entry in column (3) of the said Table :

TABLE

Name of sequestering and buffering agents	Groups of foods	Maximum level of use (parts million) (ppm) (mg/kg.)
1	2	3
1. Acetic Acid	(i) Acidulant, buffering and neutralising agents in beverages, soft drinks	Limited by G.M.P.
	(ii) in canned baby foods	5,000
2. Adipic acid	Salt substitute and dietary food	250
3. Ammonium Phosphate monobasic	Bread improver in flour	2,500
4. Ammonium Carbonate	As a leavening agent for baked foods, confections	5,000
5. Calcium gluconate	in confections	2,500
6. Calcium Carlonate	As a neutralizer in number of foods	10,000
7. Calcium oxide	As a neutralizer in specified dairy product	2,500
8. Citric acid Malic acid	Carbonated beverage and as an acidulant in miscellaneous foods	Limited by G.M.P.
9. Gluconodelta Lactone	As a leavening agent in cured meat or meat products	5,000
10. DL Lactic acid (food grade)	As acidulant in miscellaneous foods	Limited by G M P.
11. Phosphoric acid	Beverages, soft drinks	600
12. Polyphosphate containing less than 6 phosphate moieties	(a) Processed cheese bread	40,000
	(b) Milk Preparations	4,000
	(c) Cake mixes	10,000
	(d) Protein foods	4,000
13. L (+) Tartaric acid	Acidulants	600

Note.—DL Lactic acid and L(+) Tartaric acid shall not be added to any food meant for children below 12 months (The lactic acid shall also conform to the specification laid down by the Indian Standards Institution)."

14. In Appendix B to the said rules,—

(a) after item A.10.07, the following item shall be inserted, namely :—

"A. 10.01—Carob powder means the powder obtained from the roas-

ted pods of carob (fibbled carob) of *Ceratonia Siliqua* (L) Taub. (Fam. Leguminosae) and shall be free from husk. It shall be free from any artificial colouring flavouring, extraneous matter or glazine substance and shall be in sound dry and fresh condition free from rancid or obnoxious flavours.

It shall also conform to the following standards, namely :—

- | | |
|----------------------------|--|
| (i) Total Ash | Not more than 1.2 per cent by weight |
| (ii) Acid insoluble matter | Not more than 5 per cent by weight |
| (iii) Tannin content | Not less than 0.1 per cent and not more than 0.15 per cent"; |

(b) in item A.16.01, A.16.03, A.16.04, A.16.05, A.16.06, A.16.07, A.16.09 and A.16.12, the words and figures "Fumaric acid may be used upto a maximum limit of 0.5 per cent", shall be omitted ;

(c) in item A.16.02—

(i) clause (d) shall be omitted ;

(ii) after clause (d) as so omitted, the following proviso shall be inserted, namely :—

"Provided that canned tomato juice may also contain extraneous permitted colour";

(iii) the words and figures "Fumaric acid may be used upto a maximum limit of 0.5 per cent", occurring, at the end shall be omitted.

Published in the *Gazette of India, Ext.*, Part II, Section 3(ii), No.

14, dated January 4, 1985

MINISTRY OF HEALTH & FAMILY WELFARE

G. S. R. 11(EE)—(*New Delhi, the 4th January, 1985*)—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955, were published as required by sub-section (1) of section 23 of the *Gazette of India, Ext.*, Part II section 3, sub-section (i) dated the 5th September, 1983 under the notification of the Government of India in the Ministry of Health and family Welfare (Department of Health) No. G. S. R. (E), dated the 5th September, 1983 inviting objections and suggestion from all persons likely to be affected thereby, before the expiry of ninety days from the date of publication of the said notification in the Official Gazette.

And whereas the copies of the said Gazette were made available to the public on the 22nd September, 1983 ;

And whereas the objections and suggestions received from the public on the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act the Central Government after consultation with Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely:—

RULES

1. (1) These rule may be called the **Prevention of Food Adulteration (Second Amendment) Rules, 1985**.

(2) They shall come into the force on the date of their publication in the Official Gazette.

2. In the Prevention of Food Adulteration Rules, 1955,

(a) in rule 42, for sub-rule (V), the following sub-rules shall be substituted, namely:

(V) Every container or package of table salt or iron fortified Common Salt containing aluminium silicate as anticaking agent shall bear the following label, namely:—

"TABLE SALT/IRON FORTIFIED COMMON SALT"

Contains permitted anticaking agent.

Strike-out whichever is not applicable or

(VV) Every container or package of iron fortified common salt shall bear the following label, namely:—

"IRON FORTIFIED COMMON SALT"

(b) in rule 49 for sub-rule (10), the following sub-rule shall be substituted, namely:

"(10) Table salt or iron fortified common salt containing anticaking agent shall be sold only in a package which shall bear the label as specified in sub-rule (V) of rule 42 or (10A) Iron fortified common salt shall be sold only in high density polythylene bag (HDPE) (14 mesh, density 100kg/m³ un laminated), package which shall bear the label as specified in sub-rule (VV) of rule 42";

(c) in rule 57, in the Table under sub-rule (2),—

(i) against serial number 1 relating to Lead, in column (2) under the heading "(ii) other foods", after item "Hard boiled sugar confectionary" and the entry relating thereto the following item entry shall be inserted, namely:—

2	3
"Iron Fortified Common Salt"	2.0"

(ii) against serial No. 2 relating to Copper, in Column (2), under the heading "(ii) (Other foods)", after item "Hard boiled sugar confectionary" and the entry relating thereto the following items and entry shall be inserted, namely:—

(2)	(3)
"Iron Fortified Common Salt.	1.0";

(d) in item A. 11.02. 14 and A. 11.02. 15, for the words and figures "Coliform count shall not exceed 90 per gram (E.Coi) shall be absent", wherever they occur, the words and figures "Coliform shall be absent in 0.1 gram of powder" shall be substituted;

(ii) in item A. 11.02. 18, after the words "Infant milk food shall not show standard plate Count of more than 50,000 per gram", the following shall be inserted, namely:—

"Coliform shall be absent in 0.1 gram of the powder

(iii) after item m. 15. 01, the following item shall be inserted, namely:—

"A. 15. 02, Iron Fortified Common salt means a crystalline solid, white or pale, pink or light grey in colour, free from visible contamination with clay and other extraneous adulterants and impurities. It shall conform to the following standards, namely:

1. Moisture

Not more than 5.0 per cent by weight.

- | | |
|--|---|
| 2. Water insoluble matter | Not more than 10 percent on dry weight basis. |
| 3. Chloride content (as NA Cl) | Not less than 96.5 per cent by weight on dry weight basis |
| 4. Matter insoluble in dilute hydrochloric acid | Not more than 0.3 per cent by weight on dry weight basis, (to be determined by the method specified in IS 253-1970) |
| 5. Matter soluble in water other than Sodium chloride. | Not more than 2.5 per cent on dry weight basis. |
| 6. Iron content (as Fe) | 850-100 parts per million. |
| 7. Phosphorus as inorganic (PO ₄) | 1500-2000 parts per million |
| 8. Sulphate as (SO) | Not more than 1.1 per cent by weight. |
| 9. Magnesium as (Mg) where soluble. | Not more than 0.40 per cent by weight. |
| 10. PH value in 5 per cent solution in water. | 2 to 3.5: |

Provided that Iron Fortified Common salt may contain aluminium silicate as an anticaking agent to a maximum extent of 2.0 per cent and in such a case the total matter insoluble in water shall not exceed 2.2 per cent on dry weight basis."

(iv) in item A.21, in clause (b), for the figures and words "12 per cent of its weight", the figure and words "16 per cent of its weight" shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 644, dated December 31, 1984.

MINISTRY OF LABOUR AND REHABILITATION

S. O. 982(E).—(*New Delhi, the 31st December, 1984*).—In pursuance of the notification of the Government of India in the Ministry of Home Affairs S. O. No. 529 (E) dated 22nd July, 1983, the Central Government hereby appoints 31st December, 1984, as the date on which the provisions of the Fatal Accident Act, 1855 (4 of 1855) and the Employers' Liability Act, 1938 (24 of 1938) shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 2, dated January 12, 1985.

MINISTRY OF FINANCE

G. S. R. 45.—(*New Delhi, the 7th January, 1985*).—In exercise of the powers conferred by sections 11C, 11D, 11E, 11F and 11G of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules further to amend the Notified Goods (Prevention of Illegal Import) Rules, 1979, namely:—

1. (1) These rules may be called the **Notified Goods (Prevention of Illegal Import) Amendment Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Notified Goods (Prevention of Illegal Import) Rules, 1969, in rule 9, in sub-rule (2), for clause (b), the following clause shall be substituted, namely:—

“(b) In addition to the identifying particulars mentioned in clause (a), the particulars mentioned against each of the following articles shall also be given in respect of each such article :—

(i) watches—gents’ or ladies ; hand-winding, automatic quartz or electronic ; size ; shape ; with or without centre second ; calendar or not ; rolled-gold, chrome stainless steel, palladium or plastic ; luminous dial or not ; type of numerals on dial ; combination type or not ;

(ii) watch movements—model ; number ; calibre—type ; hand-winding or automatic ; calendar or not ;

(iii) watch dials—calibre ; size ;

(iv) watch cases—calibre ; size ; rolled-gold, chrome, stainless steel, palladium or plastic ;

(v) synthetic yarn—variety ; denier ;

(vi) metalised yarn—variety ; colour ; length of yarn ;

(vii) fabrics and sarees—variety of yarn ; type of fabrics ; colour ;

(viii) knit-wear—variety of yarn ; gents’, ladies’ or children’s size ; Colour ; type ;

(ix) fountain pens, ball point pens—model ; colour ;

(x) perfumes—quantity of contents per bottle/vial ;

(xi) T. V. Sets—model ; colour or black and white ; with or without remote control ; screen size ; number of channels ; combination type or not ;

(xii) electronic calculators—models : with or without printer ; combination type or not ;

(xiii) Video Cassette Recorders Video Cassette Players—model ; with or without remote control ; combination type or not ;

(xiv) video cassette tapes—model ; playing time ;

(xv) zip fasteners—length ; teeth material ; colour.”

Published in the *Gazette of India, Extraordinary*, Part-II, Section 3(i),

No. 113, dated March 18, 1985.

MINISTRY OF HOME AFFAIRS

G. S. R. 283 (E).—(*New Delhi, the 18th March, 1985*).—In exercise of the powers conferred by Section 44 of the Arms Act, 1959 (54 of 1959), the Central Government hereby makes the following rules further to amend the Arms Rules, 1962, namely :—

1 (1) These rules may be called the **Arms (Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Arms Rules, 1962, in rule 46, in clause (c) of sub-rule (4), for the words “one year and six months”, the words “two years” shall be substituted.

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(i),

No. 108, dated March 17, 1985

INDIAN POSTS AND TELEGRAPHS DEPARTMENTS

G. S. R. 105 (E).—(*New Delhi, the 16th March, 1985*).—In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (13 of 1885) and section 10 of the Indian Wireless Telegraphy Act, 1933 (17 of 1933), the Central Government hereby makes the following rules regarding

exemption of radio, television and video cassette record sets from licensing requirement, namely :—

1. **Short title and commencement:**—(1) These rules may be called the Radio, Television and Video Cassette Recorder Sets (Exemption from Licensing Requirements) Rules, 1985.

(2) They shall come in to force on the 17th day of March, 1985.

2. **Radios etc. not to be deemed to be wireless telegraphy apparatus.**—It is hereby provided in pursuance of clause (1) of sub-section (2) of section 10 of the Indian Wireless Telegraphy Act, 1933 (17 of 1933) that radio, television and Video Cassette recorder sets shall not be wireless telegraphy apparatus for the purposes of the said Act.

3. **Licensing requirement not to apply to radios, etc.**—(1) On and after the commencement of these rule.—

(a) notwithstanding anything contained in the licensing of Wireless Receiving Apparatus Rules, 1965, no licence shall be required under the said rules for working radio, television or video cassette recorder sets ;

(b) notwithstanding anything contained in the Indian Wireless Telegraphy (Possession) Rules, 1965, no licence shall be required under the rules for being in possession of radio, television or video cassette recorder sets ;

(c) notwithstanding anything contained in the Commercial Board-cast Receiver Licensing (Dealers) Rules, 1965 no licence shall be required under the said rules in respect of radio, television or video cassette recorder sets.

(2) Where licence fees have been paid under the Licensing of wireless Receiving Apparatus Rules, 1965, in respect of any radio, television or video cassette recorder set for the calendar year 1986 or any subsequent calendar year, refund shall be granted of such fees in the same manner as in the cases referred to in the proviso to rule 8 of the said rules.

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(i)

No. 91, dated March 1, 1985.

MINISTRY OF LAW AND JUSTICE

G.S.R 131 (E).—(*New Delhi, the 1st March, 1985*).—In exercise of the powers conferred by sub-section (2) of section 1 of the Constitution (Fifty-second Amendment) Act, 1985, the Central Government hereby appoints the 1st day of March, 1985, as the date on which the said Act shall come into force.

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(i),

No. 81, dated February 28, 1985.

MINISTRY OF FINANCE

G. S. R. 118 (E).—(*New Delhi, the 28th February, 1985*).—In exercise of the powers conferred by Section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (3rd Amendment) Rules 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 1944, in rule 52A,—

(1) for sub-rule (1), the following sub-rule shall be substituted, namely :—

“(1) No excisable goods shall be delivered from a factory except under a gate-pass signed by the owner of the factory and countersigned by the proper officer.

Explanation :—In this rule, and in any other rule, where the terms “gate pass” is used, it shall mean—

- (i) gate-pass in the proper form ; or
- (ii) assessee's own such delivery invoice, challan or advice or other document of similar nature in which all the particulars contained in gate-pass in the proper form are also given ; or
- (iii) such other form as the Collector may in any case or class of cases specify.”

(2) in sub-rule (4), the words “in respect of factories having more than one section form which clearances take place” shall be omitted.

Published in the *Gazette of India (Ext.)*, Part-II, Section 3(i), No. 70, dated February 20, 1985

MINISTRY OF FINANCE

G. S. R. 97(E).—(*New Delhi, 20th February, 1985*).—In exercise of the powers conferred by sub-section (1) of section 157, read with sub-section (3) of section 160, of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following rules further to amend the Foreign Privileged Persons' (Regulation of Customs Privileges) Rules, 1957, namely :—

1. (1) These rules may be called the Foreign Privileged Persons' (Regulation of Custom Privileges) Amendment Rules, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Foreign Privileged Persons' (Regulation of Customs Privileges) Rules, 1957, after rule 4A, the following rule shall be inserted, namely :—

“4B. *Permission to retain the Motor vehicle after retirement etc.*—

(1) Where a privileged person on retiring from service or relinquishing his post in India decides to stay in India and retains the motor vehicle, in respect of which exemption from customs duty was given at the time of its importation or purchase from bond, for his bona fide use, the Central Board of Excise and Customs may, on an application made to it in this behalf, allow the person concerned to do so without payment of customs duty subject to the condition that the said motor vehicle has been used in India for a period of three years or more on the date on which the said person ceases to be a privileged person or relinquishes his post in India (hereinafter referred to as the relevant date).

(2) Where the motor vehicle has not been used in India for a period of three years or more on the relevant date or if the said person chooses to sell or otherwise dispose of the motor vehicle at a later date, customs duty shall become payable.

(3) Where the said person proposes to sell or otherwise dispose of the motor vehicle, he shall offer the same to the State Trading Corporation for the said purpose with the permission of the Central Board of Excise and Customs.

(4) The provisions of rule 5 shall apply *mutatis mutandis* to the custom duty payable under this rule."

Published in the *Gazette of India (Ext.)*, Part-II, Section 3(i), No. 62, dated February 16, 1985.

MINISTRY OF HEALTH AND FAMILY WELFARE.

G. S. R. 89(E).—(*New Delhi, the 16th February, 1985*)—Whereas a draft of certain rules further to amend the Drugs and Cosmetics Rules, 1945 was published, as required by section 33 of the Drugs and Cosmetics Act, 1940 (23 of 1940), under the notification of the Government of India, in the Ministry of Health and Family Welfare (Department of Health), No. G S. R. 458 (E), dated the 19th June, 1984, Section 3, Sub-section (i), dated the 19th June, 1984, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of ninety days from the date on which the copies of the official Gazette containing the said notification were made available to the public;

And Whereas the said Gazette was made available to the public on the 4th July, 1984;

And whereas no objection or suggestion has been received from public on the said draft rules;

Now, therefore, in exercise of the powers conferred by section 33 of the Drugs and Cosmetics Act, 1940, (23 of 1940), the Central Government after consultation with the Drugs Technical Advisory Board, hereby make the following rules further to amend the Drug and Cosmetics Rules, 1945, namely :—

1. (1) These rules may be called the **Drugs and Cosmetics (First Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Insertion of rule 55-A*.—In the Drugs and Cosmetics Rules, 1945 after rule 55, the following rule shall be inserted, namely :—

"55. A. *Manner of certifying copies of seized document*.—The Drugs Inspector shall return the documents, seized by him under clause (cc), or produced before him under clause (cca), of sub-section (1) of section 22 of the Act, within a period of twenty days of the date of such seizure or production, to the person from whom they were seized or, as the case may be, the person who produced them, after copies thereof extracts therefrom have been signed by the concerned Drugs Inspector and the person from whom they were seized; or, as the case may be, who produced such records."

3. *Insertion of rule 145-BA*.—After rule 145-B of the said rules, the following rule shall be inserted, namely :—

"145 BA. *Manner of certifying copies of seized document*.—The Drugs Inspector shall return the documents, seized by him under clause (cc), or produced before him under clause (cca), of sub-section (1) of section 22 of the Act, within a period of twenty days of the date of such seizure or production, to the person from whom they were seized or, as the case may be, the person who produced them, after copies thereof or extracts therefrom have been signed by the concerned Drugs Inspector and the person from whom they were seized, or, as the case may be, who produced such records."

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i),
No. 53, dated February 4, 1985.

MINISTRY OF FINANCE

G.S.R. 76(E).—(*New Delhi, the 4th February, 1985*)—In exercise of the powers conferred by sub-section (2) of section 79 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules further to amend the Baggage Rules, 1978, namely:—

1. (1) These Rules may be called the **Baggage (Amendment) Rules, 1985.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Rule 3 of the Baggage Rules, 1978,—

(1) In clause (a), for the words “Sri Lanka or Maldives, and”, the words “Sri Lanka”, shall be substituted;

(2) after clause (a), the following clause shall be inserted, namely:—

“(aa) in the case of passengers arriving from Maldives.—

(i) Upto a value of Rs. 350, in case the period of stay outside India does not exceed three days;

(ii) Upto a value of Rs. 750, in case the period of such stay exceeds three days but does not exceed nine days,

(iii) Upto a value of Rs. 1250, in case the period of such stay exceeds nine days, excluding the days of travel, and”,

(3) in the proviso, in sub-clause (a) of clause (i), for the words “Sri Lanka or Maldives, and”, the words “Sri Lanka”, shall be substituted.

(4) after sub-clause (a), the following sub-clause shall be inserted, namely:—

“(aa) in the case of passengers arriving from Maldives,—

(i) upto a value of Rs. 100, in case the period of stay outside India does not exceed three days:—

(ii) upto a value of Rs. 200, in case the period of such stay exceeds three days but does not exceed nine days;

(iii) upto a value of Rs. 300 in case the period of such stay exceeds nine days, excluding the dates of travel, and”.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(ii), No. 117,
dated March 11, 1985.

MINISTRY OF WORKS AND HOUSING

S. O. 186(E).—(*New Delhi, the 11th March, 1985*)—In exercise of the powers conferred by sub-section (2) of section 1 of the Delhi Development (Amendment) Act, 1984 (Act 38 of 1984), the Central Government hereby appoints the twelfth day of March, 1985, as the date on which the provisions (except section 4, clause (c) of section 5 and sections 6, 10 and 11) of the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 115, dated March 11, 1985.

MINISTRY OF HOME AFFAIRS

S. O. 184(E).—(*New Delhi, the 11th March, 1985*).—In exercise of the powers conferred by sub-section (2) of section 1 of the Constitution (Forty-ninth Amendment) Act, 1984, the Central Government hereby appoints the

1st day of April, 1985 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 111, dated 8th March, 1985.

MINISTRY OF COMMERCE AND SUPPLY

S. O. 179(E).—(*New Delhi, the 6th March, 1985*).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Cotton Textile (Control) Order, 1948, namely :—

1. (1) This order may be called the **Cotton Textiles (Control) Order, 1985.**

(2) It shall come into force on the date of their publication in the Official Gazette.

2. In the Cotton Textiles (Control) Order, 1948.—

(i) in sub-clause (1) of clause 20,—

(a) after paragraph (b), the following paragraph shall be inserted, namely :—

(b) the packing of yarn in hanks, cones or in any other form and in such proportion as he may consider necessary or expedient.”

(c) in the proviso, in clause (iv) after the words “to manufacture” the words “or pack” shall be inserted.

(ii) in clause 21 sub-clause (5) shall be omitted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 104, dated March 1, 1984.

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

S. O. 172(E) —(*New Delhi, the 1st March, 1985*).—In exercise of the powers conferred by Section 18G and section 25 of Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following order further to amend the Cement Control Order, 1967, namely :—

1. (1) This order may be called the **Cement Control (Amendment) Order, 1985.**

(2) It shall come into force on the 1st day of March, 1985.

2. In the Cement Control Order, 1967 for the word “Controller”, wherever it occurs, the words: “Development Commissioner for Cement Industry” shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 81, dated February 13, 1985.

MINISTRY OF COMMERCE AND SUPPLY

S. O. 138(E)/No. E (C) O. 1977/AM(297).—(*New Delhi 13th February, 1985*).—In exercise of the powers conferred by section 3 of Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely :—

1. This Order may be called the **Export (Control) Second Amendment Order, 1985.**

2. In the Export (Control) Order, 1977 in Schedule I, in Part A, after

serial number 8A, the following serial number, letters and items shall be inserted, namely :—

“SB—Cardamom Extracts/Spent Seeds/Husk”.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (i),
No. 69, dated February 20, 1985.

MINISTRY OF FOOD AND CIVIL SUPPLIES

G S. R. 96(E).—(*New Delhi, the 20th February, 1985*).—In exercise of the powers conferred by section 83 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following rules further to amend the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, namely :—

1. (1) These rules may be called the **Standards of Weights and Measures (Packaged Commodities) Amendment Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, in the Third Schedule, in the entry under the heading “quantities under which to be packed” against the item 15, the following words shall be omitted :—

“If net quantity is declared by volume the same number is millilitres or litres as the case may be.”

Published in the *Gazette of India, (Ext.)*, Part II, Section 3 (ii),
No. 49, dated January 31, 1985.

MINISTRY OF FINANCE

S. O. 65(E).—(*New Delhi, the 31st January, 1985*).—Whereas certain draft rules further to amend the Income-tax Rules, 1962, were published with the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. S. O. 687(E), dated the 6th September, 1984, in the *Gazette of India, Extraordinary*, Part II, Section 3, Sub-section (ii), dated the 6th September, 1984, at pages 1—11, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of thirty days from the date on which copies of the *Gazette* in which the said rules were published were made available to the public ;

And whereas the copies of the said *Gazette* was made available to the public on the 10th October, 1984 ;

And whereas the objections and suggestions received from the public on the said draft rules have been considered by the Central Board of Direct Taxes ;

Now, therefore, in exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income-tax (Amendment) Rules, 1985**.

(2) They shall come into force on the first day of April, 1985.

2. In the Income-tax Rules, 1962,—

(a) after rule 6F, the following sub-heading and rule shall be inserted, namely :—

“CCC :—REPORTS OF AUDIT OF ACCOUNTS OF PERSONS

CARRYING ON BUSINESS OR PROFESSION.

6G Report of audit of accounts to be published under section 44 AB.—

(1) The report of audit of the accounts of a person required to be furnished under section 44AB shall,—

(a) in the case of a person who carries on business and who is required by or under any other law to get his accounts audited by an accountant, be in Form No. 3CA ;

(b) in the case of a person who carries on business, but not being a person referred to in clause (a), be in Form No. 3CB :

(c) in the case of person who carries on profession, be in Form No. 3CC.

(2) The particulars which are required to be furnished under section 44AB shall,—

(a) in the case of person carrying on business, be in Form 3CD ;

(b) in the case of a person carrying on profession, be in Form No. 3CE” ;

(b) in Appendix II, after Form No. 3C, the following Form shall be inserted, namely :—

“FORM NO. 3CA

[See rule 6G(1) (a)]

Audit Report under section 44AB of the Income-tax Act, 1961 a case where the accounts of the business of a person have been audited under any law by an accountant.

*I/We have to report that the statutory audit..... (name and address of the assessee) (Permanent Account No.....) was conducted by *me/us M/s .. . chartered accountants/auditors of companies in pursuance of the provisions of the..... Act, and *I/We annex hereto a copy of *my/our audit report dated... .. along with a copy each of the audited profit and loss account for the year ended on..... and a copy of the audited balance sheet as at..... along with the documents declared by the relevant Act to be part of, or annexed to, the profit and loss account and balance sheet.

A further report as required under the proviso to section 44AB is furnished in Form No. 3CD annexed hereto.

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the particulars given in Form No. 3CD, are true and correct.

Place.....

Date.....

Notes :

Signed.

**Accountant

1. *Delete whichever is not applicable.

2. Where any of the matters stated in this report is answered in the negative or with a qualification, the report shall state the reasons therefor.

3. **This report has to be given by—

(i) a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949) ; or

(ii) any person who, in relation to any State, is, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State.

FORM NO. 3CB

[See rule 6G (1)(b)]

Audit Report under section 44AB of the Income-tax Act, 1961, in case of a person carrying on business.

*I/We have obtained the balance sheet of.(name and address of the assessee) (Permanent Account No. as..... at..... and the profit and loss account for the year ended on that date which are in agreement with the books of account maintained at the head office at.....and branches at

*I/We have obtained all the information and explanations which to the best of *my/our knowledge and belief were necessary for the purposes of the audit. In *my/our opinion, proper books of account have been kept by the head office and the branches of the assessee so far as appears from *my/our examination of books, subject to the comments given below :—

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the said accounts give a true and fair view—

(i) in the case of the balance sheet, of the state of above named assessee's affairs as at.....and

(ii) in the case of the profit and loss account, of the profit or loss of the above named assessee for the account year ending on

The prescribed particulars are furnished in Form No. 3CD annexed hereto. In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, these are true and correct.

Place.. ..

Signed

Date

**Accountant

Notes :

1. *Delete whichever is not applicable.
2. Where any of the matters started in this report is answered in the negative or with a qualification, the report shall state the reasons therefor.

3. **This report has to be given by—

(t) a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949) ; or

(ii) any person who, in relation to any State, is, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State.

FORM NO. 3CC

[See rule 6G(1)(c)]

Audit Report under section 44AB of the Income-tax Act, 1961 in the case of a person carrying on profession.

I/We have examined the balance sheet of.....(name and address of the assessee)(Permanent Account No.....) as at.....and *the profit and loss account/the Income and expenditure statement for the year ended on that which are in agreement with the books of account maintained at the head office at.. ...and branches at.....

*I/We have obtained all the information and explanations which to the best of *my/our knowledge and belief were necessary for the purpose of the audit. In my *my/our opinion, proper-books of account have been kept by the head office and the branches of the assessee so far as appears

from *my/our examination of books, subject to the comments given below :

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the said accounts give a true and fair view—

(i) in the case of the balance sheet, of the state of the above named assessee's affairs as at....., and

(ii) in the case of *the profit and loss account/the income and expenditure statement of *the profit or the income or the loss of the above named assessee for the accounting year ending on.....

The prescribed particulars are furnished in Form No. 3CE annexed hereto. In *my/our opinion and to the best of *my/our information and according to explanation given to *me/us, these are true and correct.

Place.....

Signed.....:

Date.....

**Accountant

Notes:

1. *Delete whichever is not applicable.

2. Where any of the matters stated in this report is answered in the negative or with a qualification, the report shall state the reasons therefor.

3. **This report has to be given by—

(i) a chartered accountant within the meaning of the Chartered Accountant Act, 1949 (38 of 1949) ; or

(ii) any person who, in relation to any State, is by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to Act as an auditor of companies registered in that State.

FORM NO. 3CD

[See rule 6G(2)(a)]

STATEMENT OF PARTICULARS IN THE CASE OF A PERSON CARRYING ON BUSINESS

1 Books of accounts examined.

2. Method of accounting employed Indicate whether there is any change from the method of accounting employed in the immediately preceding previous year.

3. (i) Method of valuation of opening and closing stock-in-trade ;

(ii) State whether there is any change in the Method of valuation of any of the aforesaid items as compared to the Method employed in the immediately preceding previous year ;

(iii) If the answer to (ii) above is in the affirmative, specify the amount by which the profit or loss for the year has been affected by such change.

4 If in case of a dealer in goods, give quantitative details on the lines specified under the heading Finished Products in item 12 below ;

5. Amount of expenditure incurred by the assessee by way of, or on,—

(i) Capital expenditure debited to the profit and loss account ;

(ii) Personal expenses debited to the profit and loss account ;

(iii) Advertisement, publicity and sales promotion outside India in respect of goods, services or facilities which the assessee deals in or provides in the course of his business but excluding expenditure covered by

items (v) and (vi) below ;

(iv) Other Advertisement, publicity and sales promotion ;

(v) Articles presented or intended for presentation where expenditure on each such article is in excess of fifty rupees.

(vi) Advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party ;

(vii) Running and maintenance of motor cars in any branch, office or agency maintained outside India, promotion of the sale outside India of goods, services or facilities which the assessee deals in or provides in the course of his business ;

(viii) Other expenditure on running and maintenance of aircraft and motor cars including expenditure on chartering any aircraft or on hire charges for engaging cars plied for hire or on conveyance allowance paid to employees and directors.

Note.—(1) In the case of a person engaged in the business of operation of aircraft, information in respect of expenditure incurred on running and maintenance of such aircraft need not be given.

(2) In the case of person engaged in the business of running motor cars on hire information in respect of expenditure incurred in running and maintenance of such motor cars need not be given.

(ix) Payments to hotels,

(x) Travelling including foreign travel. Indicate separately the expenditure in excess of the limits laid down in rule 6D of the Income-tax Rules, 1962 and attach a statement showing how such expenditure has been arrived at. Also, attach a list of names of persons in case of foreign travel.

(xi) Maintenance of accommodation in the nature of guest house. Indicate the depreciation in respect of the building used as a guest house, and in respect of the assets in the guest house. Also indicate separately the amount received from persons using the guest house.

(xii) Entertainment (including the amount of entertainment allowance paid to any employee or other person).

(xiii) Scientific research—Indicate separately expenditure of capital nature.

(xiv) Bonus or commission paid to employees. In respect of bonus paid to an employee employed in a factory or other establishment to which the provisions of the Payment of Bonus Act, 1965 apply, indicate whether the bonus paid exceeds the amount of bonus payable under that Act.

(xv) Payments made to clubs.

(xvi) Any proceedings before any income-tax authority or the Appellate Tribunal or any court relating to the determination of any liability under the Income-tax Act, 1961, in excess of the limit laid down in section 80VV.

6. Where the assessee is a firm, details of payments by way of interest, salary, bonus, commission or remuneration of the partners of the firm.

7. Details of expenditure referred to in section 40A ;

(a) Particulars of all payments made to persons specified in section 40A(2)(b).

(b) Particulars of payments [except in the cases and circumstances specified in clause (a) to (i) of rule 6DD of the Income-tax Rules, 1962] in

excess of Rs 2,500 made otherwise than by a crossed cheque or crossed bank draft—section 40A(3).

(c) Particulars of expenditure or allowance in excess of the limits specified in section 40A (5)(c)

(d) Particulars of expenditure incurred by way of fees and salary to an ex-employee in excess of the limit specified in section 40A (6).

(e) Provision for payment of gratuity—section 40(A)(7).

(f) Sums paid by the assessee as an employer which are not allowable under section 40A(9).

8 Any tax, duty or other sum :—

(i) debited to the profit and loss account but not paid during the previous year, or

(ii) paid during the previous year but allowed as a deduction in any earlier year—section 43B.

9. Whether any amount is borrowed on a hundi form, or any amount due thereon (including interest on the amount borrowed) is repaid to, any person otherwise than by cheque? If so, give details.

10. (a) Particulars of proforma credits/drawbacks refund of duties of customs or excise or both/refund of sales tax where such credits, drawbacks or refunds are admitted as due by the concerned authorities but are not credited to the profit and loss account.

(b) Particulars of expenditure/income of any earlier year debited/credited to the profit and loss account of the relevant previous year.

(c) Particulars of any liability of a contingent nature debited to the profit and loss account.

11. Particulars of each loan or deposit of Rs. 10,000/- or more taken or accepted by the assessee in the following form :—

(i) Name and address of the lender/depositor.

(ii) Whether amount borrowed on hundi?

(iii) Whether loan/deposit account was squared up during the year?

(iv) Maximum amount outstanding at any time during the year.

(v) Whether loan/deposit was taken or accepted in cash?

(vi) Has any loan or deposit of Rs. 10,000 or more been repaid in cash?

Note.—The particulars referred to in item 10 need not be furnished in the case of a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies.

12. Where the assessee has deducted tax at source and paid the amount so deducted to the credit of the Central Government in accordance with the provisions of Chapter XVII-B? If not, give details.

13. In case of manufacturing concerns :—

(i) full quantitative details of principal items of raw materials and finished products as indicated below :

Raw Materials

(a) Opening stock.

(b) Purchase during the year.

(c) Consumption during the year.

(d) Sales during the year.

(e) Closing stock.

*(f) Yield of finished products.

* (g) Percentage of yield.

* (h) Shortage.

Finished Products

(a) Opening stock.

(b) Purchases during the year.

(c) Quantity manufactured during the year.

(d) Sales during the year.

(e) Closing stock at the end of the year.

* (f) Shortage and percentage thereof.

Note.—*1. Information in regard to these sub-items may be given to the extent available.

2. Separate quantitative details on the above lines should be given in respect of by products if any.

13. In case of a company, give details of :—

(i) Any expenditure which has resulted directly or indirectly in the provision of any remuneration, benefit or amenity to (a) a director ; (b) a person who has a substantial interest in the company ; and (c) a relative of the director or of such person.

(ii) Any expenditure or allowance in respect of assets of the company used wholly or partly for the purposes of benefit of any of the persons referred to in (i) above (State whether any such person is an employee of the assessee or not).

(iii) The amount of interest on deposits not allowable under section 40A(8).

FORM NO. 3CE

[See rule 6G(2) (b)]

**STATEMENT OF PARTICULARS IN THE CASE OF A PERSON
CARRYING ON PROFESSION**

1. Books of account examined.

2. Method of accounting employed, Indicate whether there is any change from the method of accounting employed in the immediately preceding previous year.

3. Amount of expenditure incurred by the assessee by way of, or on :—

(i) Capital expenditure debited to the profit and loss account/the income and expenditure statement.

(ii) Personal expenses debited to the profit and loss account/the income and the expenditure statement.

(iii) Running and maintenance of aircraft and motor cars including expenditure on chartering any aircraft or on hire charges for engaging cars plied for hire or on conveyance allowance paid to employees.

(iv) Payments to hotels.

(v) Travelling including foreign travel, indicate the expenditure in excess of the limits laid down in rule 6D of the Income-tax Rule, 1962 and attach a statement showing how such expenditure has been arrived at, Also attach a list of names of persons in case of foreign travel.

(vi) Entertainment (including the amount of entertainment allowances paid to any employee or other person).

(vii) Any proceedings before any income-tax authority or the Appellate Tribunal or any court relating to the determination of any liability

under the Income-tax Act, 1961, in excess of the limit laid down in section 80VV.

(viii) Payment made to club.

4 Where the assessee is a firm, details of payments by way of interest, salary, bonus, commission or remuneration to the partners of the firm.

5 Details of expenditure referred to in section 40A.

(a) Particulars of all payments made to persons specified in section 40A(2)(v).

(b) Particulars of payments [except in the case and circumstances specified in clauses (a) to (i) of rule 6DD of the Income-tax Rules, 1962] in excess of Rs. 2,500 made otherwise than by a crossed cheque or crossed bank draft—section 40A(3).

(c) Particulars of expenditure of allowances in excess of the limits specified in section 40A(5)(c).

(d) Provisions of payment of gratuity—section 40A(7).

(e) Sums paid by the assessee as an employer which are not allowable under section 40A(9).

6. Any tax, duty or other sum :—

(i) debited to the profit and loss account/the income and expenditure statement but not paid during the previous year, or

(ii) paid during the previous year but allowed as a deduction in any earlier year—section 43B.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 98, dated February 26, 1985.

MINISTRY OF FINANCE

S. O. 165(E).—(*New Delhi, the 22nd February, 1985*).—In exercise of the powers conferred by sub-section (1) of section 6 of the Capital Issues (Control) Act, 1947 (29 of 1947), the Central Government hereby makes the following Order further to amend the Capital Issues (Exemption) Order, 1969, namely :—

1. This Order may be called the **Capital Issues (Exemption) Amendment Order, 1985**.

2. In the Capital Issues (Exemption) Order, 1969—

(a) in the proviso to clause 3, for the words “fifty lakhs of rupees” the words “one crore of rupees” shall be substituted.

(b) in clause 4, for the words “fifty lakhs of rupees” wherever they occur, the words “one crore of rupees” shall be substituted; and

(c) in clause 5, in the opening paragraph for the words “fifty lakhs of rupees” the words “one crore of rupees” shall be substituted.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(ii),
No. 61, dated February 4, 1985.

MINISTRY OF FINANCE

S. O. 91(E).—(*New Delhi, the 4th February, 1985*).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income-tax (Second Amendment) Rules, 1985**.

(2) They shall come into force on the 1st day April, 1985.

2. In the Income-tax Rules, 1962, after rule 3, the following rule shall be inserted, namely :—

“3A. (1) For the purposes of sub-clause (vi) of clause (2) of section 17, simple interest of the loan referred to in the said sub-clause for any previous year shall be calculated at the rate specified by the Central Government under that sub-clause on the amount of the loan remaining outstanding as on the last day of each month falling in the previous year.

(2) For the purposes of determining the amount of loan remaining outstanding as on the last day of a month, the sums, if any, paid in any month by the employee to the employer towards the repayment of the loan or the payment of the interest due on the loan shall be deducted from the amount of the loan as outstanding on the first day of the month or when the loan is advanced during that month, from the amount so advanced, as the case may be, and interest under sub-rule (1) shall be calculated on such resultant amount.”

Published in the *Gazette of India (Ext.)*, Part II, Sec. 3(i), No. 92,
dated March 2, 1985.

MINISTRY OF FOOD & CIVIL SUPPLIES

G. S. R. 132 (E)/Ess. Com /Sugar—(New Delhi. the 2nd March, 1985)—

In exercise of the powers conferred by sub-section (3C) of section 3 of the **Essential Commodities Act, 1955** (10 of 1955), the Central Government hereby makes the following order to amend the Sugar (Price Determination for 1984-85 (Production) Order, 1985, namely :—

1 (1) This Order may be called the **Sugar (Price Determination for 1984-85 Production) Amendment Order, 1985**.

(2) It shall come into force at once.

2. In Schedule V of the Sugar (Price Determination for 1984-85 Production) Order, 1985—

(i) under the heading “HARYANA”, after serial number 5 and the entry relating thereto, the following serial number and entry shall be inserted namely :—

“6. M/s. Shahbad Cooperative Sugar Mills Ltd., Shahbad Markhanda, District Kurukshetra.”

(ii) under the heading “KARNATAKA”, after serial number 25 and the entry relating thereto, the following serial number and entry shall be inserted, namely :—

“26. M/s. Dakshina Kannada Sahakari Sakhar Karkhana Ltd., Brahmavar—576213, Mangalore, District South Kanara.”

(iii) under the heading “MAHARASHTRA” after serial number 77 and the entry relating thereto, the following serial numbers and entries shall be inserted, namely :—

“78. Shri Vighnagar Sahakari Sakhar Karkhana Ltd., Junnar, District Pune.

79. M/s. Shirpur Shetkari Sahakari Sakhar Karkhana Ltd., Postoffice Shirpur, District Dhule.”

(iv) under the heading “UTTAR PRADESH (East)” after serial number 19 and the entry relating thereto, the following serial number and entry shall be inserted, namely :—

“20. The U. P. State Sugar Corporation Ltd., District Deoria.”

Published in the *Gazette of India (Ext.)*, Part II Sec. 3(i), No. 104,
dated March 12, 1985.

MINISTRY OF FOOD & CIVIL SUPPLIES

G. S. R. 146(E)—(*New Delhi, the 12th March, 1985*)—In exercise of the powers conferred by Section 44 of the **Food Corporation Act, 1964** (37 of 1964), the Central Government hereby makes the following Rules further to amend the Food Corporations Rules, 1965, namely :—

1 (1) These Rules may be called the **Food Corporations (Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 3 of the Food Corporations Rules, 1965, in sub-rule (I), after the words "assumption of office as Chairman", the following shall be inserted, namely :—

"and he shall hold office during the pleasure of the Central Government".

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 127,
dated the March 18, 1985.

MINISTRY OF FINANCE

S. O. 196(E)—(*New Delhi, the 18th March, 1985*)—In exercise of the powers conferred by sub-section (2) of section 1 of the **Industrial Reconstruction Bank of India Act, 1984** (62 of 1984), the Central Government hereby appoints the 20th day of March, 1985, as the date on which the said Act shall come into force.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 127,
dated the March 18, 1985.

MINISTRY OF FINANCE

S.O 197(E)—(*New Delhi the 18th March, 1985*)—In exercise of the powers conferred by sub-section (i) of section 3 of the **Industrial Reconstruction Bank of India Act, 1984** (62 of 1984), the Central Government hereby appoints the 20th day of March, 1985, as the date with effect from which there shall be established a Corporation by the name of the Industrial Reconstruction Bank of India.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i) No, 115
dated the 19th March, 1985.

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

G.S.R. 286 (E)—(*New Delhi, the 19th March, 1985*)—In exercise of the powers conferred by section 58-A read with section 642 of the **Companies Act, 1956**, (1 of 1956), the Central Government in consultation with the Reserve Bank of India, hereby makes the following rules further to amend the **Companies (Acceptance of Deposits) Rules, 1975**, namely :—

1. (1) These rules may be called the **Companies (Acceptance of Deposits) Amendment Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 8 of the said rules, for the words "two percent" the words "one per cent" shall be substituted.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 120, dated March 23, 1985.

MINISTRY OF TOURISM & CIVIL AVIATION

G. S. R. 292(E)—(*New Delhi, the 23rd March, 1985*)—Whereas certain draft rules further to amend the Aircraft Rules, 1937 were published with the notification of Government of India in the Ministry of Tourism and Civil Aviation No. GSR 359 dated 19th March, 1984 in the *Gazette of India*, Part II, Section 3, Sub-section (i) dated 7th April, 1984 inviting objections and suggestions from all persons likely to be affected thereby.

And whereas copies of the said *Gazette* were made available to the public on the 7th April, 1984 ;

And whereas no objections or suggestions have been received from the public on the said draft ;

Now, therefore, in exercise of the powers conferred by section 5 of the Aircraft Act, 1934 (22 of 1934) the Central Government hereby makes the following rules further to amend the Aircraft Rules, 1937, namely :—

1. (i) These Rules may be called the Aircraft (Second Amendment) Rules, 1985.

(2) They shall come into force on the date of their publication in the Official *Gazette*.

2. In the Aircraft Rules, 1937, in Schedule II,

(1) in Section G,

(i) In para 1,

(a) in sub para (c) after the words “an aeroplane”, the words “or helicopter” shall be added.

(b) In sub-para (d) for clause (i) the following clause shall be substituted namely :—

“(i) a holder of a current Pilot's Licence for aeroplane or helicopters, as the case may be”;

(c) In Sub-para (e), after the words “fly an aeroplane”, the words or a helicopter in respect of which the rating is desired” shall be added.

(ii) For para 4, the following para shall be substituted, namely :—

“4. *Extension of Instrument Rating*.—For extension of Instrument Rating to include an additional type of aeroplane or helicopter, an applicant shall be required to produce evidence of having satisfactorily completed the flight tests as laid down in clause (e) of preceding paragraph I in respect of the type of aeroplane or helicopter for which the extension of instrument rating is desired. The flying test shall have been completed within a period of 6 months immediately preceding the date of application for extension of instrument rating”.

(iii) In para 5, for the words, “Instrument Flying Rules, the type of aeroplanes, the words “Instrument Flight Rules, the types of aeroplanes or helicopters” shall be substituted.

(2) In Section L,

(i) In para 4, after sub-para (B), the following Sub-para (C) shall be added, namely :—

“(C) *Instrument Rating*.—Instrument Rating entitles the holder to fly under Instrument Flight Rules. The standard of medical fitness and conditions for issue of this rating are laid down in Section G”.

(ii) In para 6, the third proviso, shall be substituted by the following proviso, namely :—

“Provided further that no flight is undertaken under Instrument Flight Rules without a current Instrument Rating.”

(3) In Section M,

(i) In para 4, after sub-para (b), the following sub-para (c) shall be added, namely :—

“(c) *Instrument Rating*—Instrument Rating entitles the holder to fly under Instrument Flight Rules, Conditions for issue of the rating are laid down in Section “G”.”

(ii) In Para 6, the second proviso shall be substituted by the following proviso, namely :—

“Provided further that for all flights under Instrument Flight Rules as a Pilot-In-Command or as Co-Pilot he shall be required to have current Instrument Rating.”

Published in the *Gazette of India (Extra)*, Part-II, Section 3(i),
No. 121, dated 23rd March, 1985.

MINISTRY OF HEALTH AND FAMILY WELFARE

G. S. R. 293 (E)—(*New Dehli, the 23rd March, 1985*)—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955, were published as required by sub-section (1) of section 23 of Prevention of Food Adulteration Act, 1954 (37 of 1954), with the notification of Government of India in the Ministry of Health and Family Welfare (Department of Health) No. G. S. R. 87 (E), dated the 1st March, 1984, in the *Gazette of India, Extraordinary*, Part II, Section 3, sub-section (i), dated the 1st March, 1984, at pages 1—6 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of ninety days from the date on which copies of the *Gazette of India* on which the said notification was published, were made available to the public;

And whereas the copies of the said notification were made available to the public on the 1st March, 1984;

And whereas the objections and suggestions received from the public on the draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government, after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1984, namely :—

RULES

1. (1) These rules may be called the **Prevention of Food Adulteration (Third Amendment) Rules, 1985**.

(2) They shall come into force after a period of six months from the date of their publication in the *Official Gazette*.

2. In the Prevention of Food Adulteration Rules, 1955 (hereinafter referred to as the said rules), in rule 15 for clause (a), the following clause shall be substituted, namely :—

“(a) Code number and Serial Number of the Local (Health) Authority”.

3. For rule 18 of the said rules, the following rule shall be substituted, namely :—

18. Memorandum and impression of seal to be sent separately—

A copy of the memorandum and specimen impression of the seal used to seal the packet shall be sent in a sealed packet separately to the public Analyst by any suitable means immediately but not later than the succeeding working days”.

4. In rule 24 of the said rules,—

(1) for the words “ARTIFICIALLY COLOURED”, the words “CONTAINS PERMITTED COLOURS” shall be substituted;

(2) the proviso occurring at the end shall be omitted

5. In sub-rule (2) of rule 40 of the said rules, the words, “The Product containing added natural flavour shall be labelled as “CONTAINS ADDED FLAVOUR” whereas the product containing synthetic flavour, shall be labelled as “ARTIFICIALLY FLAVOURED” occurring at the end shall be omitted.

6. For sub-rule (1) of rule 50 of the said rules, the following sub-rule shall be substituted, namely :—

“(1) No person shall manufacture, sell, stock distribute or exhibit for sale any article of food, including prepared food or ready to serve food, except under a licence :

Provided that the fruit products covered under the Fruit Products Order, 1955 solevent extracted oil, deoiled meal and edible flour covered under the Solevent Extracted Oil, De-oiled Meal and Edible Flour (Control) Order, 1967, Vanaspati covered under the Vegetable Oil Products Control Order, 1947, and meat and poultry products covered under the Meat Food Products Order, 1973, shall be exempted from the above rule.”

7. After rule 64-B of the said rules, the following rule shall be inserted, namely :—

‘64-BB. Extra. addition of flavouring agent to be mentioned on the label—Where an extraneous flavouring agent has been added to any article of food, there shall be written on the label attached to any package of food so flavoured, a statement in Capital letters as below :—

“CONTAINS ADDED FLAVOUR”

8. In Appendix A to the said rules—

(1) in Form II, to para 1, the following shall be added at the end, namely :—

“.....and I am of the opinion that.....”.

(2) In Form III, for the words “a sample of..... for analysis”, the words and bracket “a sample of bearing Code number and Serial Number..... of the Local (Health) Authority for analysis” shall be substituted;

(3) In Form VII, for the figure and words “1. Serial Number of the sample” the figures, words and brackets “1. Code number and Serial Number of Local (Health), Authority” shall be substituted.

Published in the *Gazette of India*, (Extr.), Part II, Section 3(i),

No. 148, dated the 30th March, 1985.

MINISTRY OF FINANCE

G. S. R. 388 (F)—(New Delhi, the 30th March, 1985)—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944, (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (4th Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Central Excise Rules, 1944, in rule 96, after the words "the Controller may at his discretion" the words, "for reasons to be recorded in writing" shall be inserted.

Published in the *Gazette of India, (Extr.)*, Part II, Section 3 (i),
No. 75, dated the 12th February, 1985.

MINISTRY OF COMMERCE AND SUPPLY

S. O. 110 (E)—(*New Delhi, the 12th February, 1985*)—In exercise of the powers conferred by sub-section (3) of section 1 of the **Tobacco Board Act, 1975** (4 of 1975), the Central Government hereby appoints the 15th day of February, 1985, as the date on which section 13 of the said Act shall come into force in the State of Andhra Pradesh.

Published in the *Gazette of India, (Extr.)*, Part II, Section 3 (i),
No. 116, dated the 11th March, 1985.

MINISTRY OF COMMERCE & SUPPLY.

S. O. 185 (E) (C) O./1977/AM/(298)—(*New Delhi, the 11th March, 1978*)—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following order further to amend the Exports (Control) Order, 1977, namely :—

1. This order may be called the **Exports (Control) Third Amendment Order, 1985**.

2. In the Exports (Control) Order, 1977 :—

(a) in Schedule I, in Para 'A' for the existing entry against serial number 22 (xxi) the following shall be substituted, namely :—

(b) in Schedule I, in Para 'B' for the existing entry against serial Number 45 (i), the following shall be substituted, namely :—

"All grades of Bauxite, except calcined Bauxite".

(c) in Schedule III, in OGL-4, after serial number 33 and the entries thereto, the following shall be inserted namely :—

1	2	3	4
"34.	All grades of Bauxite except calcined Bauxite.	B. 45 (i)	Minerals and Metals Trading Corporation."

Published in the *Gazette of India, (Extr.)*, Part II, Section 3 (i),
No. 119, dated the 12th March, 1985.

MINISTRY OF COMMERCE AND SUPPLY.

S. O. 188 (E)/No. E (C) O, 1977/AM (299) (*New Delhi, the 12th 1985*).—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947) the Central Government hereby makes the following order further to amend the Exports (Control), Order, 1977, namely :—

1. This Order may be called the **Exports (Control) Fourth Amendment Order, 1985**.

2. In the Exports (Control) Order, 1977 :—

(a) In Schedule I, Part A, for existing entry against serial number 8 (xii) (a) (14) the following shall be substituted, namely :—

“Gloriosa superba (Liliaceae), other than Gloriosa superba (Liliaceae) Seeds grown in the farms.”

(b) In Schedule I, in Part B, after serial number 24 (viii), the following shall be inserted, namely :—

“(ix)—Gloriosa superba (Liliaceae) Seeds grown in the farms.”

(c) In Schedule III, in OGL-3m after serial number 210, the following shall be inserted, namely :—

1	2	3	4
“21H.	Gloriosa Superba (Liliaceae) Seeds grown in the farms.	B. 24 (ix)	Exports allowed on production of : (i) Inspection certificate from the Revenue Officer or his representative in the State to the effect that seeds to be exported have been produced through cultivation in the farm, indicating herein particulars of place, area etc. in which the seeds are cultivated, and (ii) A certificate from an officer not lower in rank than Deputy Conservator of Forests to the effect that the seeds is derived only from a plantations raised by the exporter and not collected from wild sources ”

Published in the *Gazette of India, (Extr.)*, Part II, Section 3 (i),
No. 126, dated the 16th March, 1985.

MINISTRY OF IRRIGATION & POWER.

S. O. 195 (E). (*New Delhi, the 16th March, 1985*).—In exercise of the powers conferred by sub-section (2) of Section 1 of the *Electricity (Supply) Amendment Act, 1983* (16 of 1983), the Central Government hereby appoints the 1st day of April, 1985 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 140 dated the 25th March 1985.

MINISTRY OF COMMERCE AND SUPPLY.

S. O. 228(E) :—(*New Delhi, the 25th March. 1985.*) :—In exercise of the powers conferred by section 3 of the *Essential Commodities Act, 1955* (10 of 1955), the Central Government hereby makes the following order further to amend the *Art Silk Textiles (Production and Distribution) Control Order, 1962*, namely :—

1. (1) This order may be called the **Art Silk Textiles (Production and Distribution) Control Amendment Order, 1985**.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Art Silk Textiles (Production and Distribution) Control, Order, 1962 :—

(ii) for sub-clauses (1) and (2) of clause 3, the following shall be substituted, namely :—

“(1) The Textile Commissioner may, from time to time, issue direction in writing to any manufacturer or class of manufactures, or manufactures generally regarding :—

(a) the classes or specifications of art silk cloth or art silk yarn, as the case may be, which each manufacturer or class of manufactures or manufactures generally shall or shall not manufacture ; or

(b) the maximum or minimum quantities of art silk cloth or art silk yarn, as the case may be, which such manufacturer, or class of manufactures or manufactures generally shall manufacture during such period as may be specified in the order :—

(c) the packing of art silk yarn in hanks, cones or in other form and in such proportion as he may consider necessary or expedient ;

Provided that in issuing the direction under the sub-clause the Textile Commissioner shall have regard to :—

(i) the demand for art silk cloth or art silk yarn ;

(ii) the needs of the general public ;

(iii) the special requirement of the industry for such art silk cloth or art silk yarn ;

(iv) the capacity of the manufacturer or class of manufactures generally to manufacture, or pack different descriptions or specifications of art silk cloth or art silk yarn ; and

(v) the necessity to make available to the general public cloth of mass consumption

(2) (a) While issuing any direction under sub-clause (1), the Textile Commissioner may also provide that such direction shall be with reference to the quantity of art silk cloth or art silk yarn packed by the manufacturer, or class of manufactures, or manufactures generally during the period referred to in that sub-clause.

(b) Every manufacturer, or class of manufactures or manufactures generally, to whom a direction has been issued shall comply with the direction

(c) Where, on an application made by any manufacturer or class of manufactures or otherwise, the Textile Commissioner is satisfied that any direction issued by him under this clause shall cause undue hardship or difficulties to any such manufacturer or class of manufactures he may by order and for reasons to be recorded in writing, direct that the directions shall not apply, or shall apply subject to such modification as may be specified in the order, to such manufacturer or class of manufactures.”

(ii) Clause 3-B shall be omitted.

Published in the *Gazette of India*, Part II, Section 3 (ii),
No. 13, dated March 30, 1985.

DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS

S. O. 1284.—(*New Delhi, the 14th March, 1985*).—In exercise of the powers conferred by section 3 of the *Delhi Special Police Establishment Act, 1946* (25 of 1946) the Central Government hereby specifies the following offences as the offences which are to be investigated by the Delhi Special Police Establishment, namely:—

(a) Offences punishable under section 4 of the *Punjab Special Power (Press) Act, 1956* (*Punjab Act, 38 of 1956*) and section 23 of the *Indian Telegraph Act, 1885* (13 of 1885) and

(b) Attempts, abetments, and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence committed in the course of the same transaction arising out of the same facts.

Published in the *Gazette of India*, Part II, Section 3 (ii), No.
12, dated March 28, 1985.

DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS.

S. O. 1198.—(*New Delhi, the 8th March, 1985*).—In exercise of the powers conferred by section 3 of the *Delhi Special Police Establishment Act, 1946* (25 of 1946), the Central Government hereby specifies the following offences as the offences which are to be investigated by the Delhi Special Police Establishment, namely:—

(a) Offence punishable under section 292 of *Indian Penal Code, 1860* (45 of 1860),

(b) Attempts, abetments and conspiracies in relation to or in connection with the offence mentioned above, and any other offence committed in the course of the same transaction arising out of the same facts.

Published in the *Gazette of India* Part II, Section 3 (ii) No. 9,
Dated 2nd March, 1985.

DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS

S. O. 845.—(*New Delhi, 18th February, 1985*).—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6, of the *Delhi Special Police Establishment Act, 1946* (25 of 1946) the Central Government, with the consent of the Government of the State of Sikkim, "hereby extends to the whole of the State of Sikkim" the powers and jurisdiction of the members of the Delhi Special Police Establishment for the investigation of the offences specified in the Schedule below, namely:—

THE SCHEDULE

(a) Offences punishable under rule 6 of the *Passport (Entry into India) Rules, 1950* read with sub-section 3 of the section 3 of the *Passport (Entry into India) Act, 1920* (34 of 1920);

(b) Offences punishable under sections 9 and 17 of the *Central Excise and Salt Act* (1 of 1944);

(c) Offences punishable under the *Imports and Exports (Control) Act, 1947* (18 of 1947);

(d) Offences punishable under the Representation of People Act, 1950 (43 of 1950) and the Representation of the People Act, 1951 (43 of 1951);

(e) Offences punishable under clause (iii) of sub-section (1) of section 24 of the Industries (Development and Regulation) Act, 1951 (65 of 1951);

(f) Offences punishable under sections 132, 133, 134, 135 and 136 of the Customs Act, 1962 (52 of 1962);

(g) Offences punishable under section 25 of the Antiquities and Art Treasures Act, 1972 (52 of 1972);

(h) Attempts, abetments and conspiracies in relation to or in connection with, any of the offences mentioned in (a) to (g) above and any other offence committed in the course of the same transaction arising out of the same facts.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i), No. 192, dated, the 16th April, 1985.

MINISTRY OF COMMERCE

S. O. 335 (E) No. E(C) O. 1977/AM (301)—(*New Delhi, the 16th April, 1985*)—In exercise of the powers conferred by section 3 of the Imports and Exports (Control), Act, 1947 (18 of 1947), the Central Government hereby makes the following order further to amend the Exports (Control) Order, 1977, namely :—

1. This Order may be called the Exports (Control) Sixth Amendment Order, 1985.

2. In the Exports (Control) Order, 1977, in Schedule I :—

(i) In Para 'A' for the existing entry at serial number 5, the following shall be substituted, namely :—

"Wheat products viz. Rawa, Resultant Atta and Wheat Bran",

(ii) In Part 'B' for serial number 20 and the entry relating thereto, the following shall be substituted, namely :—

"20(i) Grains and flour other than those mentioned in Part 'A'.

(ii) Wheat.

(iii) Maida, suji and wholemeal atta, Viz. wheat flour of not less than 95% extraction.

Published in the *Gazette of India, (Ext.)*, Part -II, Section 3(i), No. 156, dated 4th April, 1985.

MINISTRY OF FOOD AND CIVIL SUPPLIES

G. S. R. 344 (E)—(*New Delhi, the 4th April, 1985*)—In exercise of the powers conferred by sub-section (3) of Section 1 of the Standards of Weights and Measures, Act, 1976 (60 of 1976), the Central Government hereby appoints the 4th day of April, 1985 as the day on which the following provisions of the said Act shall come into force in the State of Sikkim, namely :—

(i) Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 & 27 :

(ii) Section 30 ;

(iii) Sections 51, 52 and 53.

Published in the *Gazette of India (Ext.)*, Part-II, Section 3(i),
No 163, dated April 9, 1985.

MINISTRY OF AGRICULTURAL & RURAL DEVELOPMENT

G. S. R. No. 35(E)—(*New Delhi, the 9th April, 1985*)—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Fertiliser (Movement Control) Order, 1973, namely :—

1. (1) This order may be called the Fertiliser (Movement Control) Amendment Order 1985.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Fertiliser (Movement Control) Order, 1973, for clause 3, and the provisos thereto, the following Clause and the provisos shall be substituted, namely :—

“3. *Prohibition of export of fertilisers.*—No person shall export or attempt to export, or abet the export of any fertiliser from any state; provided that nothing in this clause shall apply to the export of fertilisers under and in accordance with an authority issued by the Government of India in the Ministry of Agriculture and Rural Development or the Director of Agriculture of a State Government or any other Officer authorised by the State Government in this behalf :

Provided further that the export of physical and granulated mixtures of fertilisers from one State to another shall be subject to an authorisation, allowing entry of the material in the State to which it is being exported, by the Director of Agriculture or such other Officer authorised by the State Government in this behalf”

Published in the *Gazette of India (Extra.)*, Part II, Section 3(i),
No 195, dated May 1, 1985.

MINISTRY OF FINANCE

G. S. R. 390(E).—(*New Delhi, the 1st May, 1985*)—In exercise of the powers conferred by Section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (i) These rules may be called the Central Excise (5th Amendment) Rules, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 1944—

(a) in rule 9A for sub-rule (5), the following sub-rule shall be substituted, namely :—

“(5) in all other cases, the rate of duty and tariff valuation. If any, applicable to excisable goods shall be the rate and valuation in force on the date on which the notice for demand of duty is issued or on the date on which duty is paid, whichever is earlier” ;

(b) in rule 56C, in sub-rule (4), for clause (c) the following clause shall be substituted, namely :—

“(c) in any other case, on the date on which the notice for demand of duty is issued or on the date on which duty is paid, whichever is earlier.”

(c) in rule 196, in sub-rule (2), for clause (iv) the following clause shall be substituted, namely :—

“(iv) in all other cases, on the date on which the notice for demand for duty is issued or on the date on which duty is paid whichever is earlier,”

Published in the *Gazette of India, Extra.*, Part II, Section 3(i),
No. 199, dated May 2, 1985.

MINISTRY OF HOME AFFAIRS

G.S.R. 396(E).—(*New Delhi, the 2nd May, 1985*)—Whereas certain draft rules further to amend the Registration of Foreigners Rules, 1939, were published, as required by Section 3 of the Registration of Foreigners Act, 1939 (16 of 1939), in the *Gazette of India, Extraordinary Part II, Section 3 Sub-section (i)*, dated the 2nd April, 1985, under the notification of the Government of India in the Ministry of Home Affairs No. G.S.R. 340(E), dated the 2nd April, 1985 inviting objections and suggestions from all persons likely to be affected thereby, within a period of thirty days from the date of publication of that notification in the Official Gazette ;

And whereas the copies of the said Official Gazette were made available to the public on the 2nd April, 1985

And whereas objections and suggestions on the said draft received from the persons likely to be affected thereby have been considered by the Central Government ;

Now therefore, in exercise of the powers conferred by section 3 of the said Act the Central Government hereby makes the following rules further to amend the Registration of Foreigners Rules, 1939, namely :—

1. (1) These rules may be called the **Registration of Foreigners (Amendment) Rules, 1985.**

(2) They shall come into force on the 20th May, 1985.

2. *In the Registration of Foreigner Rules, 1939.*—(i) in rule 4A, clauses (a) and (b) of sub-rule (1) and sub-rule (3) of rule 16, for the word and letters “Form D or Form DB”, the word and letter “Form D” shall be substituted ;

(ii) in sub-rule (2) of rule 15, for the word and letters “Form DB”, the word and letter “Form D” shall be substituted ;

(iii) in sub-rule (6) of rule 16, for the word and letters “Form DA, DB”, the word and letter “Form D” shall be substituted ;

(iv) for “Form DA and DB”, the following Form shall be substituted, namely :—

“FORM D

No.....

EMBARKATION/DISEMBARKATION CARD

(Please fill up with ball-point pen and retain carbonised copy in good condition for use at the time of departure/re-entry).

1. Name in full

Mr./Mrs./Miss

(Surname)

(Other names)

2. Date of birth :

(Day)

(Month)

(Year)

Place of birth

(Place)

(Country)

3. Nationality

4. Passport Number _____ Issued at _____ on _____
 (Place) (Date)
 5. Visa Number _____ Issued at _____ on _____
 (Place) (Date)
 6. Father's/Husband's name _____
 7. Address in country of domicile _____
 8. Occupation _____
 9. Purpose of visit :—
 Transit Holiday Business
 Employment Conference Study
 Visiting Friends and relatives others
 10. Intended duration of stay _____
 11. Address of stay in India _____
 (for arriving passengers) _____
 12. Port of embarkation and _____
 flight number or vessel's _____
 Name (for arriving pas- _____
 sengers) _____
 13. Port of disembarkation and _____
 flight number or vessel's _____
 name (for departing pas- _____
 sengers) _____
 14. Last address in India (for _____
 departing passenger's _____

 Signature

Signature

15. Have you been to or transited through any country in Latin America or Africa or West Indies or Papua, New Guinea during last six days Yes _____ No _____
No.

FOR CUSTOM CLEARANCE

1. Name in full
Mr/Mrs/Miss _____
(Surname) (Other names)
2. Number of packages
including hand baggage _____
3. Any accompanied bag-
gage _____

Signature

Note :

There are two channels for customs clearance. Green Channel is for passengers not having any dutiable or unaccompanied baggage. Red Channel is for passengers having dutiable or unaccompanied baggage.

Published in the *Gazette of India, Extraordinary* Part-II, Section 3(i),
No. 217, dated May 25, 1985.

MINISTRY OF FOOD AND CIVIL SUPPLIES

G. S. R. 458 (E).—(*New Delhi, 25th May, 1985*).—In exercise of the powers conferred by Section 83 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following rules further to amend the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, namely :—

1. (1) These rules may be called the **Standards of Weights and Measures (Packaged Commodities) Second Amendment Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, in rule 6,—

(i) for sub-rule (2), the following shall be substituted, namely :—

“(2) Every dealer or other person who makes a retail sale of any commodity in packaged form shall, where local taxes have to be added to the price indicated on such package by the manufacturer, indicate such actual local taxes on each package either by printing or stamping or writing in ink” ;

(ii) sub-rule (3) shall be omitted.

Published in the *Gazette of India, Extraordinary* Part-II, Section 3(i),
No. 223 dated May 31, 1985

MINISTRY OF LAW AND JUSTICE

G.S.R. 465 (E).—(*New Delhi, the 31st May, 1985*).—In exercise of the powers conferred by sub-section (2) of section 1 of the *Andhra Pradesh Legislative Council (Abolition) Act, 1985* (34 of 1985), the Central Government hereby appoints the 1st day of June, 1985, as the date on which the said Act shall come into force.

Published in the *Gazette of India, Extraordinary* Part-II, Section 3(i)
No. 233, dated June 1, 1985

MINISTRY OF FINANCE

G. S. R 480 (E).—(*New Delhi, the 1st June, 1985*).—In exercise of the powers conferred by section 79 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules further to amend the Transfer of Residence Rules, 1978, namely :—

1 (1) These rules may be called the **Transfer of Residence (Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Transfer of Residence Rules, 1978, in rule 4, for the words “thirty thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Published in the *Gazette of India (Extra.)*, Part-II, Section 3(i),
No. 234, dated June 4, 1985.

MINISTRY OF LAW AND JUSTICE

G.S.R 481 (E).—(*New Delhi, the 4th June, 1985*).—The following order made by the President is published for general information “C. O. 122.

THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) AMENDMENT ORDER, 1985.

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following order :—

1. (1) This order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1985.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954.—

(1) in clause (b) of sub-paragraph (6), in article 248.—

(i) clause (a) shall be relettered as clause (aa) and in that clause as so relettered, for the words “prevention of activities”, the words “prevention of other activities” shall be substituted ;

(ii) before clause (aa) as so relettered, the following clause shall be inserted, namely :—

“(a) prevention of activities involving terrorist acts directed towards overawing the Government as by the law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;”

(iii) the following Explanation shall be inserted at the end, namely:—

Explanation.—In this article, ‘terrorist act’ means any act or thing by using bombs, dynamite or other explosive or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature’;

(2) in sub-paragraph (22),—

(i) in sub-clause (iv) of clause (a) relating to the Union List, for entry 97, the following entry shall be substituted, namely :—

‘97. *Prevention of activities*—(a) involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people ;

(b) directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution ;

taxes on foreign travel by sea or air, on in land air travel and on postal articles, including money orders, phonograms and telegrams.

Explanation.—In this entry, “terrorist act” has the same meaning as in the *Explanation* to article 248’;

(ii) in clause (c) (relating to the Concurrent List), for sub-clause (ia) and (ib), the following sub-clause shall be substituted, namely :—

“(ia) for entry 2, the following entry shall be substituted, namely:—

“2. Criminal Procedure (including prevention of offences and constitution and organisation of Criminal Courts, except the Supreme Court and the High Court) in so far as it relates to.—

(i) offences against laws with respect to any matters being matters with respect to which Parliament has power to make law; and

(ii) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country";

(ib) for entry 12, the following entry shall be substituted, namely:—

"12. *Evidence and oaths in so far as they relate to*,—(i) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country; and

(ii) any other matters being matters with respect to which Parliament has power to make law",.

Published in the *Gazette of India, (Ext.)*, Part-II Section 3(ii),

No. 172, dated April 4, 1985.

MINISTRY OF HOME AFFAIRS

S. O. 288(E).—(*New Delhi, the 4th April, 1985*).—In exercise of the powers conferred by section 3 of the Foreigners Act, 1946 (31 of 1946) the Central Government hereby makes the following order, namely:—

1. (1). This order may be called the *Foreigners (Production of Proof of Identity) Order, 1985*.

(2). It shall come into force on the 8th day of April, 1985 and shall remain in force upto and inclusive of the 21st day of April, 1985.

2. Every foreigner who is required to be in possession of a passport or any other kind of travel document for purpose of entry into India shall carry with him at all times, while he is in the Union Territory of Delhi, his passport or such other travel document as is required to be in his possession or other proof of his identity as also the certificate of registration and residential permit, if any, issue to him under the Registration of Foreigners Rules, 1939, and the Foreigners Order 1948, and shall be liable to produce the same on demand to any police officer of or above the rank of a constable or to any other officer concerned with internal security or work in respect of foreigners.

Published in the *Gazette of India, Extraordinary* Part-II, Section 3(ii),

No. 176, dated April 8, 1985.

MINISTRY OF FINANCE

S. O. 292 (E).—(*New Delhi, the 20th March, 1985*).—In exercise of the powers conferred by sub-section 6 of the Capital Issues (Control) Act, 1947 (29 of 1947), the Central Government hereby makes the following order further to amend the Capital Issues (Exemption) Order, 1969, namely:—

1. This order may be called the *Capital Issues (Exemption) Second Amendment Order, 1985*.

2. In the Capital Issues (Exemption) Order, 1969, in sub-clause (iv) of clause 4, for the words and letter "the Industrial Reconstruction Corporation of India" the words and letters "the Industrial Reconstruction Bank of India" shall be substituted.

Published in the *Gazette of India, Extraordinary*, Part-II, Section 3(ii),

No. 214, dated April 27, 1985.

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

S. O. 366 (E).—(*New Delhi, the 27th April, 1985*).—In exercise of the powers conferred by clause (g) of section 2 of the Transformer and Switch-gear Limited (Acquisition and Transfer of Undertakings) Act, 1983 (41 of 1983), the Central Government hereby specifies the 1st day of June, 1985,

as the specified date for the purpose of section 17 of the said Act.

Published in the *Gazette of India, Extraordinary* Part-II, Section 3(ii),
No. 231, dated May 14, 1985.

MINISTRY OF COMMERCE

S. O. 386 (E).—(*New Delhi, the 14th May, 1985*).—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely:—

1. This order may be called the **Exports (Control) Eighth Amendment Order, 1985.**

2. In the Exports (Control) Order, 1977 in Schedule 1, in Part A, for serial number 8B and the entry relating thereto, the following shall be substituted, namely:—

“8B Cardamom Spent Seeds/Husk”.

Published in the *Gazette of India (Ext.)*, Part-II, Section 3(ii), No. 235,
dated May 15, 1985.

MINISTRY OF COMMERCE

S. O. 391 (E).—(*New Delhi, the 15th May 1985*).—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947, (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely:—

1. This order may be called the **Exports (Control) Ninth Amendment Order, 1985.**

2. In the Exports (Control) Order, 1977, in Schedule III; in OGL-3 against said number 16 in column 4 for the existing entry, the following shall be substituted, namely:—

“Export allowed subject to minimum export price of Rs. 7,500/- per MT (f.o.b.).”

Published in the *Gazette of India (Ext.)*, Part-II Section 3 (ii), No. 252,
dated May 24, 1985.

MINISTRY OF HOME AFFAIRS

S. O. 412(E).—(*New Delhi, the 24th May 1985*) —In exercise of the powers conferred by sub-section (3) of section 1 of the **Terrorist and Disruptive Activities (Prevention) Act, 1985** (31 of 1985); the Central Government hereby appoints the 24th day of May 1985 as the date on which the said Act shall come into force.

Published in the *Gazette of India (Ext.)*, Part-II, Section 3 (ii), No. 270,
dated May 31, 1985

MINISTRY OF HOME AFFAIRS

S. O. 433 (E).—(*New Delhi the 31st May 1985*):—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that subject to his control any power or duty which by the **Terrorist and Disruptive Activities (Prevention) Act, 1985** (31 of 1985) or by any rule made thereunder is conferred or imposed on the State Government shall be exercise and discharged by the Administrator of the Union territory (whether called a Lieutenant-Governor or a Chief Commissioner or, an Administrator) in relation to the Union territory concerned.

Published in the *Gazette of India (Ext.)*, Part-II Section 3 (ii), No. 280, dated June 4, 1985.

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

S. O. 445 (E).—(*New Delhi, the 4th June 1985*).—In exercise of the powers conferred by section 18G and Section 25 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) the Central Government hereby makes the following order further to amend the Cement Control Order, 1967, namely :—

1. (1) This order may be called the **Cement Control (Third Amendment) Order, 1985**.

(2) It shall come into force with immediate effect.

2. In the Cement Control Order, 1967, in clause 2, for sub-clause (d) the following shall be substituted, namely :—

“(d) “Levy Cement” means that part of actual production of the cement plant as may be determined by the Central Government, from time to time, not being more than 60 per cent of actual production thereof.”

Published in the *Gazette of India (Ext.)*, Part-II, Section 3 (ii), No. 297, dated June 14, 1985.

MINISTRY OF FOOD AND CIVIL SUPPLIES.

S. O. 465(E).—(*New Delhi, the 14th June 1985*).—In exercise of the powers conferred by section 3 of the Essential Commodities Act 1955 (10 of 1955), the Central Government hereby makes the following amendments in the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977. namely :—

1. (1) This order may be called the **Pulses, Edible Oils (Storage Control) (Amendment) Order, 1985**.

(2) It shall come into force at once.

2. In the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order 1977, in sub-paragraph (1) of Paragraph 4, for clause (ii), the following shall be substituted, namely :—

Category of cities	Stock limits in quintals in the case of Wholesaler Retailer		Remarks.
“(ii) Edible Oilseeds Including groundnut in shell.	Category A	3000 200	1. All edible oilseeds taken together. 2. For groundnut kernel or seed 75% of the limits specified shall apply.”
	Category B	2000 150	
	Category C	2000 100	

Published in the *Gazette of India (Ext.)*, Part-II, Section 3. (ii) No. 216, dated April 27, 1985.

MINISTRY OF FINANCE

S. O. 368 (E).—(*New Delhi, the 27th April 1985*).—In exercise of the powers conferred by sub-section (4) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970 (5 of 1970), the Cen-

tral Government, after consultation with the Reserve Bank of India hereby makes the following scheme further to amend the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, namely:—

1. (1) This scheme may be called the **Nationalised Banks (Management and Miscellaneous provisions) (Amendment) Scheme 1985**.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970,—

(a) clause 13 shall be omitted;

(b) (i) clause 14 shall be renumbered as sub-section (1) thereof and in sub-clause (1) as so renumbered, the words “such other” shall be omitted;

(ii) after sub-clause (1) as so renumbered, the following sub-clause shall be inserted, namely:—

“(2) Any committee under sub-clause (1) may be re constituted by the Board of any time it thinks fit.”

(c) sub-clause (4) of clause 16 shall be omitted;

(d) for clause 18, the following clause shall be substituted, namely:—

“18. *Resolution without meeting of the Board valid.*—A resolution writing signed by the majority of the members of the Board shall be valid and effectual and shall be deemed to be the resolution passed by the Board on the date it was signed by the last signatory to the resolution:

Provided that any resolution passed as aforesaid shall be placed before the next meeting of the Board:

Provided further that if any dissenting members requires in writing that any resolution so passed shall be placed before a meeting of the Board, the resolution shall not be deemed to be valid and effectual as aforesaid unless the same is passed at such meeting.”

Published in the *Gazette of India (Ext.)*, Part-II, Section 3 (ii),
No. 216 dated April 27, 1985.

MINISTRY OF FINANCE

S. O. 369 (E).—(*New Delhi, the 27th April, 1985*)—In exercise of the powers conferred by sub-section (4) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), the Central Government, after consultation with the Reserve Bank of India hereby makes the following scheme further to amend the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, namely:—

1. (1) This scheme may be called the **Nationalised Banks (Management and Miscellaneous Provisions) (Amendment) Scheme, 1985**

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980,—

(a) clause 13 shall be omitted;

(b) (i) clause 14 shall be renumbered as sub-clause (1) thereof and in sub-clause (1) as so renumbered, the words “such other” shall be omitted;

(ii) after sub-clause (1) as so renumbered, the following sub-clause shall be inserted, namely :—

“(2) Any Committee constituted under sub-clause (1) may be re-constituted by the Board at any time it thinks fit.”;

(c) sub-clause (4) of the clause 15 shall be omitted;

(d) for clause 17, the following clause shall be substituted, namely :—

“17. *Resolution without meeting of the Board valid.*—A resolution in writing signed by the majority of the members of the Board shall be valid and effectual and shall be deemed to be the resolution passed by the Board on the date it was signed by the last signatory to the resolution:

Provided that any resolution passed as aforesaid shall be placed before the next meeting of the Board :

Provided further that if any dissenting members requires in writing that any resolution so passed shall be placed before a meeting of the Board the resolution shall not be deemed to be valid and effectual as aforesaid unless the same is passed at such meeting”.

Published in the *Gazette of India, Ext. Part II, Section 3 (ii), No. 170*, dated April 4, 1985.

MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT.

S.O. 286(E).—(*New Delhi, the 4th April, 1985*) In exercise of the powers conferred under section 25 of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 (42 of 1981) and in supersession of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) (Amendment) Rules, 1984 the Central Government hereby makes the following rules to amend Maritime Zones of India (Regulation of Fishing by Foreign Vessels), Rules, 1982 namely:—

1. *Short title and commencement.*—(1) These rules may be called the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Amendment Rules, 1985.

(ii) They shall come into force on the date of their publication in the official Gazette.

2. In the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules, 1982 hereinafter referred to as the said rules (i) in rule 5, in sub-rule (1), after clause (x), the following clause shall be inserted, namely:—

“(y) where the fishing is authorised by the licence including the licences issued prior to the commencement of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Amendment Rules, 1985, the crew of the Vessel shall fish beyond,

A. 24 nautical miles from the shore on the Western coast as a general rule with the following restrictions, namely:—

(1) off Maharashtra-Gujarat Coast line. No Fishing by Foreign vessels shall be allowed between the coast line and the line joining the following points :—

(i) 22° 54' N-67° 33' E

(ii) 21° 33' N-68° 56' E

(iii) 19° 2' N-72° E

(iv) 18° 33' N-72° E

(v) 18° N-72° 31' E

(2) Off Kerala-Tamil Nadu Coast line.

No fishing by foreign vessels shall be allowed in the areas joined by the following points :—

- (i) 7° 45' N-77° E
- (ii) 7° 45' N-78° E
- (iii) 7° 30' N-78° E
- (iv) 7° 30' N-77° E

B. 12 nautical miles from the shore on the Eastern coast as a general rule subject to the following restrictions, namely :—

(i) Fishing may be done beyond 24 nautical miles between the Nizampatna (Andhra Pradesh) and Paradeep Port (Orissa).

(ii) No finishing shall be allowed between the area covered by the coast line and the line joining the following points in the North of Chilka (Orissa) and upto Bangladesh boundary :

- (i) 19° 22' N-85° 30' E
- (ii) 20° N-86° 56' E
- (iii) 20° 42' N-88° E
- (iv) 21° 08' N-88° 7' E
- (v) 21° 16' N-89° 14' E

(ii) in rule 8 of the said rules, in sub-rule (1) after clause (p), the following clause shall be inserted, namely :—

“(q) The charterer including those who hold permits issued prior to the commencement of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Amendment Rules, 1985, shall fish beyond,—

A. 24 nautical miles from the shore on the Western coast as a general rule with the following restrictions, namely :—

(1) Off Maharashtra/Gujarat Coast line. No fishing by foreign Vessels shall be allowed between the coast line and the line joining the following points:

- (i) 22° 54' N-67° 33' E
- (ii) 21° 33' N-68° 56' E
- (iii) 19° 2' N-72° E
- (iv) 18° 33' N-72° E
- (v) 18° N-72° 31' E

(2) Off Kerala/Tamil Nadu Coast line. No fishing by foreign vessels shall be allowed in the areas joined by the following points off Kerala/Tamil Nadu coast line.

- (i) 7° 45' N-77° E
- (ii) 7° 45' N-78° E
- (iii) 7° 30' N-78° E
- (iv) 7° 30' N-77° E

B. 12 nautical miles from the shore on the Eastern Coast as general rule subject to the following restrictions, namely :—

(i) Fishing may be done beyond 24 nautical miles between the Nizampatnam (Andhra Pradesh) and Paradeep Port (Orissa).

(ii) No fishing shall be allowed between the area covered by the coast line and the line joining the following points in the North of Chilka (Orissa) and upto Bangladesh boundary:

- (i) 19.22' N-85.30' E
- (ii) 20.N-86.56' E

- (iii) 20.42' N 88' E
- (iv) 21.8' N-89.7' E
- (v) 21.16'N-89.14' E

Published in the *Gazette of India*, (Ext.), Part-II, Section 3(i),
No. 178, dated April 19, 1985.

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

G. S. R. No. 372(E)—(*New Delhi, the 19th April, 1985*)—In exercise of the powers conferred by section 58A, read with section 642, of the Companies Act, 1956 (1 of 1956), the Central Government, in consultation with the Reserve Bank of India, hereby makes the following rules, further to amend the Companies (Acceptance of Deposits) Rules, 1975, namely :—

1. (1) These rules may be called the Companies (Acceptance of Deposits) Second Amendment Rules, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette.

2 (i) In the Companies (Acceptance of Deposits) Rules, 1975 in clause (n) of Rule 2 after sub-clause (x), the following sub-clause shall be inserted, namely :—

“(xi) any amount brought in by the promoters by way of unsecured loans in pursuance of stipulation of financial institutions subject to the fulfilment of the following conditions, namely :—

(a) the loans are brought in pursuance of the stipulation imposed by the financial institutions in fulfilment of the obligation of the promoters to contribute such finance ;

(b) the loans are provided by the promoters themselves and/or by their relatives, not from their friends and business associates ; and

(c) the exemption under this sub-clause shall be available only till the loans of financial institutions are repaid and not thereafter.

*Explanation :—*For the purpose of this sub-clause the term ‘financial institution’ shall mean :—

(a) a public financial institution specified in or under section 4A of the Companies Act, 1956.

(b) a State Financial, Industrial or Investment Corporation ;

(c) the State Bank of India or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) ;

(d) a nationalised bank ; that is to say, a corresponding new bank as defined in section 2 of :—

(i) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) ; or

(ii) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) ;

(e) the General Insurance Corporation of India established in pursuance of the provisions of section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) ;

(f) the Industrial Reconstruction Corporation of India ; or

(g) any other Institution which the Central Government, may, be notification, specify in this behalf”.

(ii) for the existing Form of Return of Deposits, the following Form shall be substituted, namely :—

FORM

(See Rule 10 of the Companies (Acceptance of Deposits) Rules, 1975.)

Registration No. _____

Company Code _____

(To be filed by RBI)

Return of deposits with non-banking
Companies, other than financial
Companies as on 31st March, _____

Zone
1

Type
2

(Please see Instruction No. 1)

For Office use only

1. Name of the Company _____
2. Full address of : _____
- (i) Registered office _____
Pin Code : _____
- (ii) *Head/Administrative Office _____
Pin Code. _____
3. Whether a Government Company ** Yes :—No _____
4. **State in which the Company is
having its Registered Office. _____
5. Status : Public Ltd. Company/Private Ltd. Company/
Deemed Public Ltd. Company. _____
6. Date of closing of the accounts. _____
7. Main Business : (Agriculture/Plantation/Manu-
facturing/Trading/Shipping & other transport/Hotels
Any others) (Please specify). _____
8. Type of industry: (Cotton Textiles, Sugar, Engi-
neering etc.) (Please Specify). _____
9. Name(s) of the Company's auditors and address(es) _____

*If it is place other than the registered office.

**Tick the box which is applicable.

***Strike off the categories not applicable,

****Enter the name of the State in the space provided therefor.

Note :—

1. (a) Every company to which these rules apply, shall on or before the 30th day of June, of every year, file with the Registrar of Companies, a return in the form annexed to these rules and furnishing the information contained therein as on the 31st day of March of that year (duly certified by the auditors of the Company).

(b) The return, after completion, should be filed with the Registrar of Companies with a copy of to the Joint Chief Officer, Department of Financial Companies (Central Office Cell), Reserve Bank of India, 16th Floor, NCOB, S. B. Road, Bombay-400023.

2. The submission of the return should not be delayed for any reason such as the finalisation/completion of the audit of the annual accounts. The return should be Completed on the basis of the figures available in the books of accounts of the company.

3. The number of accounts should be given in actual figures while the amounts of deposits should be given in thousands of rupees. Amount should be rounded off to the nearest thousands, for example, amount of Rs. 4,560 should be shown as 5 and not as 4.6 or 5,000/-. Similarly an amount of Rs. 61,495 is to be shown as 61 and not 61.4 or 6100/-.

4. The period wise classification of deposits should be made against the various heads under item No. 2 (a) and 4 (a) of Part-1 of the return according to the periods of which they have been originally received/last renewed and not according to the period they have to run as from the 31st March i. e. the date of the return.

5. In case there is nothing to report in any part of the return, it should be marked 'NIL' and the Manager's/Managing Director's/Authorised Official's Certificate appended to the return should be duly signed.

PART-1

Particulars of Deposits, etc.

Item No.	Particulars	Item Code	No. of acco-unts	Amount (in thou-sand Rs.)
(1)	(2)	(3)	(4)	(5)
1.	Deposits of the kind referred to in Rule 3(2)			
	(i) of the Rules :			
	(i) Amount of deposits brought forward from the previous years.		101	
	(ii) Amount of deposit accepted or renewed during the year.		102	
	(iii) Total :		103	
	(iv) Amount of deposits repaid during the year		104	
	(v) Balance of deposits outstanding at the end of the year :—		105	
(a)	Unsecured debentures.		111	
(b)	Deposits received by a public Company from its shareholders (vide note (I) below).		112	
(c)	Deposits including unsecured loans guaranteed by directors in their personal capacity.		113	
(d)	Total of the total deposits at item 1 (v) (b) above those		110	
2. (a)	(i) Repayable on demand or notice or otherwise in less than 6 months.		121	
	(ii) For a period of 6 months or more but less than 1 year.		122	
	(iii) For a period of 1 year or more but less than 2 years.		123	
	(iv) For a period of 2 years or more but less than 3 years.		124	
	(v) For a period of 3 years.		125	
	(vi) More than 3 years.		126	
	(vii) Total		120	
(b)	(i) Free of interest		131	
	(ii) Below 6%		132	

(1)	(2)	(3)	(4)	(5)
	(iii) 6% or more but less than 9%	133		
	(iv) 9% or more but less than 11%	134		
	(v) 11% or more but less than 13%	135		
	(vi) 13% or more but less than 15%	136		
	(vii) At 15%	137		
	(viii) More than 15%	138		
	(ix) Total	130		
(c)	(i) Those which have matured but not claimed.	141		
	(ii) Those which have matured and claimed but not paid.	142		
3.	Deposits of the kind referred to in Rule 3(2)			
	(ii) of the Rules :			
	(i) Amount of deposits brought forward from the previous year.	151		
	(ii) Amount of deposits accepted or renewed during the year.	152		
	(iii) Total	153		
	(iv) Amount of deposits repaid during the year	154		
	(v) Balance of deposits outstanding at the end of the year	155		
	(a) Fixed deposits	161		
	(b) Any other deposits	162		
	(c) Total :	160		
4.	Of the total deposits at item 3(v)(c) above those :			
	(a) (i) Repayable on demand or no notice or otherwise in less than 6 months	171		
	(ii) For a period 6 months or more but less than 1 year	172		
	(iii) For a period of 1 year or more but less than 2 years	173		
	(iv) For a period of 2 years or more but less than 3 years	174		
	(v) For a period of 3 years	175		
	(vi) For more than 3 years	176		
	(vii) Total	170		
	(b) (i) Free of interest	181		
	(ii) Below 6%	182		
	(iii) 6% or more but less than 9%	183		
	(iv) 9% or more but less than 11%	184		

(1)	(2)	(3)	(4)	(5)
	(v) 11% or more but less than 13%		185	
	(vi) 13% or more but less than 15%		186	
	(vii) At 15%		187	
	(viii) More than 15%		188	
	(ix) Total :		180	
(c)	(i) Those which have matured but not claimed:		191	
	(ii) Those which have matured and claimed but not paid.		192	

Note.—(1) Ref. Item (v) (b). If the company is a public Company and a declaration as specified in note (1) of Part 2 has not been obtained from its directors such deposits should be shown against this item.

(2) Ref. Item 2. Amount at item 1 (v) (d), Item 2 (a) (vii) and Item 2 (b) (ix) should tally with each other.

(3) Ref. Item 3. Amount at item 3 (v) (c), 4 (a) (vii) and 4 (b) (ix) should tally with each other.

(4) Ref. Item 3 (v) (b). If the company is a private Company and a declaration as specified in Note (1) of the part 3 has not been obtained such deposits should be shown against this item.

(5) The amounts shown in Part 3 should not be included in Part-1.

Part 2

Particulars of Liquid Assets (Rule 3A)

Item No.	Particulars	Item Code	Amount in thousands of Rs.	Date of investment/Deposit
(1)	(2)	(3)	(4)	(5)
1.	(a) Amount of deposits maturing before 31st March next.		210	
	(b) Ten per cent of the above		220	
	(c) Details of liquid assets		230	
	(1) Amount in current or other deposits account, free from charge or lieu, with any scheduled bank.		231	
			241	
(2)	Unencumbered securities of Central/State Government.			
	(i) Face Value			
	(ii) Market Value		242	
(3)	Unencumbered Trust Securities.			
	(i) Face Value		251	
	(ii) Market value		252	
	(4) Total [1+2 (ii)+3(ii)]		260	

(1)	(2)	(3)	(4)	(5)
2. Particulars of advertisement inviting deposits/statement in lieu of advertisement. Rule 4/4A)				
(a) Date of publication of the advertisement inviting deposits from the public/statement in lieu of advertisement.				
(b) Period of currency of the previous advertisement/statement in lieu of advertisement				

PART 3

**Particulars of exempted borrowing, etc., not considered as deposits
(Rule 2(b)(1) to 2(b)(x))**

Item No.	Particulars	Item code	No. of accounts	Amounts in thousands of rupees)
(1)	(2)	(3)	(4)	(5)
1.	Money received from the Central or State Government(s) or money received from others the repayment of which is guaranteed by the Central Government or a State Government or money received from a local authority. [Rule 2(b)(i)]	301		
2.	Money received from a foreign Government or any other foreign citizen, authority or persons (see also note 3 below) [Rule 2(b)(i)]	302		
	(a) Foreign Government	303		
	(b) Foreign citizen, authority or persons	304		
3.	Borrowings from banks and other specified financial institutions [Rule 2(b)(ii) & (iii)]	305		
4.	Money received from any other company [Rule 2(b)(iv)]	306		
5.	Money received from directors (see note 1 below [Rule 2(b)(ix)]	307		
6.	Money received by a private company from the shareholders (vide notes (1) & (2) below [Rule 2(b)(ix)]	308		
7.	Money received from employees of the company by way of security deposits [Rule 2(b)(v)]	309		
8.	Money received by way of security or advance from purchasing, selling or other agents in the course of company's business			

(1)	(2)	(3)	(4)
	or advance received against orders for supply of goods or properties or for rendering of services [Rule 2(b)(vi)]	310	
	9. Money received by issue of debentures secured by mortgage of immovable properties or convertible debentures, [Rule 2(b)(x)]	311	
	10. Money received by way of subscription to any share or secured debentures pending allotment or money received by way of... calls in advance on shares in accordance with the articles of association of the company so long as such amounts is not repayable to shareholders under the articles of association of the company. [Rule 2(b)(vii)]	312	
	11. Money received in trust or money, in transit [Rule 2(b)(viii)].	313	
	12. Total (1 to 11)	320	

Note.—(1) Only money received from such person on a declaration in writing that the money has not been given by such persons out of funds acquired by him/them by borrowing or accepting deposits from another person should be shown against this item. Otherwise it should be shown against item No. 1 or 4 of Part-I, as the case may be, as indicated in Notes (1) and (4) of Part 1.

(2) Money received from the shareholders of a private company deemed as a public company under section 43A of the Companies Act, 1956, should also be included under this item subject to the obtaining of declaration referred to in Note (1) above.

Manager's Certificate

Certified.—(i) that a copy of this return has been sent/is being sent to Joint Chief Officer, Department of Financial Companies (Central Office Cell) Reserve Bank of India, Bombay-400 023.

(ii) that the figures of deposits, liquid assets and interest rates under Parts 1, 2 and 3 have been verified and found to have been correctly prepared.

(iii) that the aggregate of the paid-up capital and free reserves, etc., as arrived at on the lines indicated in Explanation to rule 3 of the Rules are as follows :—

Item No.	Particulars	Item code	Amount in thousand in rupees)
(1)	(2)	(3)	(4)
1.	Net owned funds (figures to be furnished as preceding per the latest audited balance-		

(1)	(2)	(3)	(4)
sheet preceding the date of the return—balance-sheet as on audited on and adopted on			
	(i) Paid-up capital	331	
	(ii) Free reserves	332	
	Total (i+ii)	333	
2.	(i) Accumulated balance of loss	341	
	(ii) Balance of deferred revenue expenditure	342	
	(iii) Accumulated unprovided depreciation	340	
	(iv) Miscellaneous expenses and preliminary expenses	344	
	(v) Other intangible assets (please specify)	345	
	Total : (i)+(ii)+(iii)+(iv)+(v)	340	
3.	Net owned funds (1—2)	350	
4.	Deposits of the kinds referred to in rule 3(2)(i) of the Rules (vide item 1(v)(d) of Part I of the return) (% of paid-up capital and free reserves)		
5.	Deposits of the kinds referred to in rule 3(2)(ii) of the Rules (vide item 3(v)(c) of the return) (% of paid-up capital and free reserves)		

Signatures of

Authorised official

Name

Designation

Date

Auditors' Certificate (to be attached)

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i) No. 523,
dated June 21, 1985.

MINISTRY OF HOME AFFAIRS

G. S. R. 504 (E)—(*New Delhi, the 21st June, 1985*)—In exercise of the powers conferred by section 6 of the *Goa, Daman and Diu (Administration) Act, 1962 (1 of 1962)*, the Central Government hereby extends the *Agricultural Produce Cess Act, 1940 (27 of 1940)* to the Union Territory of Goa, Daman and Diu.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 271,
dated the 1st July, 1985.

MINISTRY OF PERSONNEL & TRAINING ADMINISTRATIVE REFORMS & PUBLIC GRIEVANCES AND PENSION

G. S. R. 527 (E)—(*New Delhi, the 1st July, 1985*)—In exercise of the powers conferred by sub-section (3) of Section 1 of the *Administrative Tri-*

tribunals Act 1985 (13 of 1985), the Central Government hereby appoints the 1st day of July, 1985, as the date on which the provisions of the Act in so far as they relate to the Central Administrative Tribunal, shall come into force.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 352,
dated August 9, 1985

MINISTRY OF HOME AFFAIRS

G. S. R. 643 (E)—(*New Delhi, the 9th August, 1985*)—In exercise of the powers conferred by section 3 of **Foreigners Act, 1946** (31 of 1946), the Central Government hereby makes the following order further to amend the **Foreigners (Restricted Areas) Order, 1963**, namely:—

1. (1) This order may be called the **Foreigners (Restricted Areas) Second Amendment Order, 1985**.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In para 3 to the **Foreigners (Restricted Areas) Order, 1963**, the following proviso shall be inserted at the end, namely:—

“Provided also that any foreign journalists holding accreditation card issued by the Press Information Bureau of the Government of India shall not be required to obtain permit under this order in respect of any place or area falling within the Restrictive Area of Punjab”.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 378,
dated August 23, 1985.

MINISTRY OF FINANCE

G. S. R. 678 (E)—(*New Delhi 23rd August, 1985*)—In exercise of the powers conferred by section 37 of the **Central Excises and Salt Act, 1944** (1 of 1944), the Central Government hereby makes the following rules further to amend the **Central Excise Rules, 1944**, namely:—

1. (1) These rules may be called the **Central Excise (9th Amendment) Rules 1985**.

(2) They shall come into force on the 1st day of September, 1985.

2. In the **Central Excise Rules, 1944** in rule 2, in clause (ii), in sub-clause (A) —

(1) for item (q), the following item shall be substituted, namely:—

“(q) (a) in the area comprising of Bassein, of the State of Maharashtra; and

(b) in the area comprising of the Municipal Corporation of Greater Bombay of the State of Maharashtra, but excluding—

(i) the area specified in item (p) above thereof,

(ii) the area comprising of the Municipal Ward S thereof, which is north of Konkan Nagar Nalla, originating at Tembe Pada Hill in the west and flowing into the Thane Creek in the east, and

(iii) the area comprising of the Municipal Ward T thereof,

the Collector of Central Excise, Bombay-II;”

(2) for item (i); the following item shall be substituted, namely:—

“(t) (a) in the district of Raigarh and Thana (excluding Bassein, Palghar and Dahanu talukas of Thane district), of the State of Maharashtra; and

(b) in the Municipal Corporation of Greater Bombay of the State of Maharashtra, in the area comprising of—

(i) the Municipal Ward S thereof, which is north of Konkan Nagar, Nalla, originating at Tembe Pada Hill in the west and flowing into the Thane Creek in the east, and

(ii) The Municipal Ward T thereof,
the Collector of Excise, Bombay-III ;”

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 382,
dated the 7th August, 1985

MINISTRY OF COMMERCE

S O. 594 (E)—(*New Delhi, the 7th August, 1985*)—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely :—

1. This order may be called the Exports (Control) Fourteenth Amendment Order 1985.

2. In the Exports (Control) Order, 1977, in Schedule III, in OGL-2, in para 5, for the existing serial number (i), the following shall be substituted, namely :—

“(i) Grains and flour viz. non-basmati rice, and paddy (rice in husk) -B-20”.

Published in the *Gazette of India*, Extraordinary Part II, Section 3 (i),
No. 238, dated June 7, 1985.

MINISTRY OF TOURISM AND CIVIL AVIATION

GSR 485 (E).—(*New Delhi, the 7th June, 1985*)—Whereas certain draft rules further to amend the Aircraft Rules, 1937, were published with the notification of the Government of India in Ministry of Tourism and Civil Aviation No. GSR 609 dated the 31st May, 1984, in *Gazette of India*, Part II, Section 3, Sub-section (i), dated 16th June, 1984 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of three months from the date on which copies of the Official Gazette in which the said notification was published were made available to the public.

And whereas the said Gazette was made available to the public on the 16th June, 1984 ;

And whereas no objections or suggestions have been received from the public ;

Now, therefore, in exercise of the powers conferred by Section 5 of the Aircraft Act, 1934, the Central Government hereby marks the following rules further to amend the Aircraft Rules, 1937, namely :—

1. (1) These rules may be called the Aircraft (Fifth Amendment) Rules, 1985.

(2) they shall come into force on the date of their publication in the Official Gazette.

2. In the Aircraft Rules, 1937, the Rules 133(C) the following rule shall be substituted namely :—

“133C Fees—

(1) The following fee shall be payable for any inspection, examination, test carried out for the grant of—

(a) Approval to an organisation to engage in the design and manufacture of aircraft	Rs. 10,000.00
(b) Renewal of approval referred to at (a)	2,000.00
(c) Approval to an organisation employing 100 and more persons in the manufacture of aircraft components and items of equipment including materials, forging, casting, standard parts	2,000.00
(d) Renewal of approval referred to at (c)	400.00
(e) Approval to an organisation employing less than 100 persons in the manufacture of Aircraft components and items of equipment including materials, forging, casting standing parts	500.00
(f) Renewal of approval referred to at (e)	100.00
(g) Approval to an organisation or a person to engage in workshop processing, treatment and inspection	250.00
(h) Renewal of approval referred to at (g)	50.00
(i) Approval to an organisation to engage in maintenance, overhaul, modification, repair, inspection, treatment, processing of aircraft components and items of equipment installed in aircraft having an all-up weight above 15,000 Kg	5,000.00
(j) Renewal of approval referred to at (i)	1,000.00
(k) Approval to an organisation or a person to engage in maintenance, overhaul, modification, repair, inspection, treatment, processing etc. of aircraft, aircraft components and items of equipment installed in aircraft having all-up weight of 15,000 Kgs. and below	500.00
(l) Renewal of approval referred to at (k)	100.00
(m) Approval to an organisation or person to engage in storage and distribution of aircraft, aircraft components, items of equipment, material, standard parts	500.00
(n) Renewal of approval referred to at (m)	100.00
(o) Approval to an organisation or a person to engage in storage, distribution and supply of aircraft fuel, lubricants and special products	500.00
(p) Renewal of approval referred to at (o)	for each station. 100.00
(q) Approval as testing laboratory	for each station. 250.00
(r) Renewal of approval referred to at (q)	50.00
(s) Approval to an organisation for imparting training in activities referred to in Rule 133B	500.00
(t) Renewal of approval referred to at (s)	100.00
(u) Approval to a person for certification of airworthiness of an aircraft, aircraft components or items of equipment	50.00
(v) Renewal of approval referred to at (u)	25.00
(w) Approval to an organisation to engage in the maintenance, overhaul, modification, repair, and inspection of aircraft components and items of equipment including emergency equipment but excluding engines	500.00

(x) Renewal of approval referred to at (w) 100.00

NOTE :

1. If an organisation or a person is granted approval for storage, distribution and supply of aircraft fuel, lubricants, special products, etc., for its own aircraft, no fees will be charged for the grant of approval or renewal thereof.

2. No fees will be charged for approval or renewal from Flying Clubs/Institutes/Schools and Gliding Clubs/Centres/Wings engaged in maintenance, overhaul, modification, repair, inspection, treatment, processing, etc., of aircraft, aircraft components and items of equipment installed in aircraft having all-up weight of 15,000 kgs. and below.

3. The validity of approval/renewal of approval shall not exceed one year.

4. For extension in the scope of approval under categories 'C' (Maintenance) and 'A' (Manufacture) to cover additional type of aircraft, aircraft components and items of equipment, a fee equal to renewal fee in that Category shall be charged.

(2) All fees payable shall be paid by crossed Indian Postal Order or a Bank Draft.

(3) Where for any reason the approval is not granted or renewed, as the case may be, the Director General may refund to the applicant such portion of the fees paid as may represent the cost of any inspection, examination, test not carried out.

Published in *the Gazette of India, Extraordinary*, Part II, Section 3(i),
No. 255, dated June 24, 1985.

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

New Delhi, the 24th June, 1985.

G.S R. 506 (E).—In exercise of the powers conferred by clause (b) of sub-section (1) of section 637 of the *Companies Act, 1956* (1 of 1956), and in supersession of the notification of the Government of India, in the Ministry of Finance (Department of Company Affairs and Insurance) No. G.S R. 71 dated the 1st January, 1966, the Central Government :

(i) hereby delegates to the Regional Directors of the Company Law Board at Bombay, Calcutta, Madras and Kanpur also, the powers and functions of the Central Government under the following provisions of the said Act, namely :—

Section 22,

Section 25,

Sub-section (1) of section 31.

Clause (aa) of sub-section (6) of section 43A,

Section 167.

Sub-sections (3), (4), (7) & clause (a) of sub-section (8) of sections 324.

Section 394A.

Second proviso to sub-section (5) of section 439 and sub-section (6) of the said section,

Clause (a) of sub-section (1) of section 496,

Clause (a) of sub-section (1) of section 508,

Sub-section (1) of section 551,

Clause (b) of sub-section (7) of section 555 and the proviso to clause (a) of sub-section (9) of the said section,
 Proviso to sub-section (1) of section 610,
 Section 627 ;

(ii) further directs that every Regional Director shall exercise his powers and perform the functions so delegated to him subject to the control of the Company Law Board.

2. This notification shall come into force on 1st July, 1985.

G.S.R. 507.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 637 of the Companies Act, 1956 (1 of 1956), the Central Government hereby delegated to the Registrars of Companies, the powers and functions of that Government under the following provisions of the said Act, namely :—

Section 21,

Sub-section (4) of section 43A.

Sub-section (1D) of section 108.

2. The Central Government further directs that every Registrar of Companies shall exercise his powers and perform his functions so delegated to him subject to the control of the Company Law Board.

3. This Notification shall come into force on 1st July, 1985.

Published in the *Gazette of India, Extraordinary*, Part II, Section 3 (i), No. 225, dated the 1st June, 1985.

MINISTRY OF FOOD AND CIVIL SUPPLIES

G.S.R. 468 (E). (*New Delhi, 1st June, 1985*).—In exercise of the powers conferred by sub-clause (1) of clause 4 of the Vegetable Oil Products Control Order, 1947, the Vegetable Oil Products Controller for India hereby makes the following Order, further to amend the Vegetable Oil Products (Standards of Quality) Order, 1975, namely :—

1. (1) This order may be called the **Vegetable Oil Products (Standards of Quality) First Amendment Order, 1985**

(2) It shall have effect for a period of four months coming on the publication in the *Official Gazette*.

2 In the First Schedule to the Vegetable Oil Products (Standards of Quality) Order 1975, in paragraph 2, in sub-clause (a) of clause (1), after the entry (xiii) but before the explanation, the following entry shall be inserted, namely :—

“(xiv) Solvent Extracted Rapeseed/Mustard Oil”.

Published in the *Gazette of India, (Extraordinary)*, Part II, Section 3(i) No. 235, dated June 5, 1985.

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

G.S.R. 482 (E).—(*New Delhi, the 5th June, 1985*).—In exercise of the powers conferred by Section 58-A read with Section 642 of the Companies Act, 1956 (1 of 1956) the Central Government, in consultation with the Reserve Bank of India, hereby makes the following rules further to amend the Companies (Acceptance of Deposits) Rules, 1975, namely :—

1. (1) These rules may be called the **Companies (Acceptance of Deposits) Third Amendment Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Acceptance of Deposits) Rules, 1975 :

(i) in rule 6 after sub-rule (2) the following sub-rule shall be inserted, namely :—

“(3) The company shall not reserve to itself either directly or indirectly a right to alter, to the prejudice or disadvantage of the depositor, the terms and conditions of the deposit after it is accepted.”

(ii) in rule 8 for the proviso, the following proviso shall be substituted, namely :—

“Provided that nothing contained in rule shall apply to the repayment of any deposit before the expiry of the period for which such deposit was accepted by the company, if such repayment is made solely for the purpose of :—

(a) complying with the provisions of the Non-Banking Non-financial Companies (Reserve Bank) Directions, 1966 ; or

(b) complying with the provisions of rule 3 ; or

(c) converting with the consent of the depositors, into secured debentures in accordance with the guidelines, issued by the Government of India from time to time, regarding the issue of “rights” debentures ; or

(d) Providing war risk or other related benefits to the personnel of the naval, military or air force or to their families, on an application made by the association, or societies formed by such personnel, during the period of emergency declared under article 352 of the Constitution.

*Explanation :—*For the purpose of this rule, where the period for which the deposit had run contains any part of a year, then, if such part is less than six months, it shall be excluded and if such part is six months or more, it shall be reckoned as one year.”

Published in the *Gazette of India*, (Ext.) Part II, Section 3(i), No. 257, dated June 25, 1985,

MINISTRY OF FINANCE

GSR 509 (E).—(New Delhi the 25th June, 1985)—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1 (1) These rules may be called the **Central Excise (7th Amendment) Rules, 1985**

(2) They shall come into force on the date of their Publication in the Official Gazette.

2. In the Central Excise Rules, 1944, in rule 2, in clause (ia).—

(a) in sub-clause (a), after item (i), the following items shall be inserted, namely :—

“(ii) the Collector of Central Excise, Ahmedabad ;

(iii) the Collector of Central Excise, Vadodara ;

(v) the Collectot of Central Excise, Rajkot ;

(b) in sub-clause (c), items (viii), (ix), and (x) shall be omitted.

Published in the *Gazette of India (Ext.)*, Part II Section 3(i), No. 282, dated July 2, 1985.

MINISTRY OF HEALTH AND FAMILY WELFARE

G. S. R 543 (E)—(*New Delhi, the 2nd July, 1985*)—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955, were published as required by sub-section (1) of section 23 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) with the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No GSR 568(E), dated the 13th September, 1982, and republished with the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. GSR 517 (E) dated the 19th July, 1984, in the *Gazette of India, Extraordinary*, Part II, Section 3, Sub-section (i), dated the 13th September, 1982 and 19th July, 1984 respectively inviting objections and suggestions from all persons likely to be affected thereby before the expiry of ninety days from the date on which copies of the Official Gazette in which the last-mentioned notification was published were made available to the public;

And whereas the copies of the said Gazette were made available to the public on the 19th July, 1984;

And whereas the objections and suggestions received from the public on the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government, after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely:—

RULES

1. (1) These rules may be called the **Prevention of Food Adulteration (Fourth Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Prevention of Food Adulteration Rules, 1955 (hereinafter referred to as the said rules) in rule 50, in sub-rule (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that a producer of milk, who sells milk only to a milk co-operative society which is a member of a milk cooperative Union engaged in reconstitution of milk or manufacture of milk products, shall be exempted from this sub-rule.”

3. In Appendix ‘B’ to the said rules—

(1) for item A 18, 12, the following item shall be substituted, namely:—

“A. 18.12—**MALTED MILK FOOD** means the product obtained by mixing whole milk, partly skimmed milk or milk powder with the wort separately from a mash of ground barley malt, any other malted cereal grain and wheat flour or any other cereal flour or malt extract with or without addition of flavouring agents and spices, emulsifying agent, eggs, protein isolates, edible common salt, sodium or potassium bicarbonate, minerals and Vitamins and without added sugar in such a manner as to secure complete hydrolysis of starchy material and prepared in a powder

or granule or flake from by roller drying, spray drying, vacuum drying or by any other process. It may contain cocoa powder. It shall be free from dirt and other extraneous matter. It shall not contain any added starch (except starch natural to cocoa powder) and added non-milk fat. It shall not contain any preservative or added colour. Malted milk food containing cocoa powder may contain added sugar.

Malted milk food shall also conform to the following standard, namely :—

	Malted milk food without cocoa powder	Malted milk food with cocoa powder
"(a) Moisture	Not more than 5 percent by weight.	Not more than 5 percent by weight.
(b) Total protein (N X 6.25) (on dry basis)	Not less than 12.5 per cent by weight.	Not less than 11.25 per cent by weight.
(c) Total Fat (on dry basis)	Not less than 7.5 per cent by weight.	Not less than 6 per cent by weight
(d) Total ash (on dry basis)	Not more than 5 per cent by weight.	Not more than 5 per cent by weight.
(e) Acid insoluble ash (on dry basis) (in dilute Hcl)	Not more than 0.1 per cent by weight.	Not more than 0.1 per cent by weight.
(f) Solubility	Not less than 85 per cent by weight.	Not less than 80 per cent by weight.
(g) Cocoa powder (or dry basis)	—	Not less than 5.0 per cent by weight.
(h) Test for starch	Negative	—
(i) Bacterial Count	Not more than 50,000 per gram	Not more than 50,000 per gram.
(j) Coliform Count	Not more than 10 per gram	Not more than 10 per gram".

(2) in item A. 18.14, in the list of ingredients, after the word "Sugar" the words "Gur, Jaggery, Bura, Khandeeri" shall be inserted.

Published in the *Gazette of India Extra*, Part II, Section 3 (i), No. 310, dated July 17, 1985

MINISTRY OF SHIPPING & TRANSPORT

G.R.S. 588 (E).—(New Delhi, the 17th July. 1985) —In exercise of the powers conferred by Section 352-R read with sections 457 and 458 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government here by makes the following rules, namely:—

1. *Short title and commencement.*—(1) These rules may be called the Merchant Shipping (Form of Certificate of Insurance for Civil Liability for Oil Pollution Damage) Rules, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*—In these rules, unless the context otherwise requires:—

(a) "Act" means the Merchant Shipping Act, 1958 (44 of 1958);

(b) "Form" means a Form annexed to these rules.

(3) Words and expression used in these rules but not defined shall have the meanings respectively assigned to them under the Act.

3. *Particulars of Insurance or other financial security.*—(1) The owner of every Indian ship which carries 2000 tons or more oil in bulk as cargo shall apply in Form 'A' to the Director General of Shipping for the issue of a Certificate of Insurance or other financial security maintained in respect of such ship.

(2) The owner or agent of any foreign ship may also apply in Form "A", to the Director General of Shipping for the issue of a certificate of Insurance or other financial security maintained in respect of such ship.

4. *Issue of Certificate of Insurance or other Financial Security.*—The Director General of Shipping shall, after satisfying himself about the maintenance of Insurance or other financial security in respect of the ship for which the application under Rule 3 has been made, issue the Certificate in Form "B" to the owner or agent of the ship.

5. *Issue of duplicate certificate.*—When a certificate of Insurance or other financial security issued under Rule 4, is destroyed, defaced or otherwise lost, the owner or agent of the ship may obtain from the Director General of Shipping, a duplicate certificate.

6. *Fees*—(1) Every application for issue of a certificate of Insurance or other financial security under Rule 4, shall be accompanied by a fees of Rs. 250/-

(2) A duplicate copy of the certificate under Rule 5 shall be issued to the owner or Agent as the case may be, on payment of fee of Rs. 20/-.

FORM "A"

(See Rule 3)

Form of Application for a certificate of Insurance or other financial security maintained under the Merchant Shipping Act, 1958.

1. Name of agent/owner :

2. Name of Ship :

3. Official Number :

4. Port of Registry :

5. Name of Owner :

6. (i) Gross Tonnage :

(ii) Nett Tonnage (Attach a photo copy of Certificate of Registry)

(iii) Tonnage for limitation :

[as per Section 352 N and Section 352 B (3) :]

7. (a) Particulars of Insurance or other financial security maintained :

(b) Limits of the Liability :

(c) Period of validity (Attach copy of documents in support) :

I hereby solemnly declare that to the best of my knowledge and belief the particulars given in this form are true and correct. A certificate may be issued to the ship under Section 352 N of the Merchant Shipping Act, 1958.

I have been authorised by the owner to make this application.

Place :

Date :

Signature of Applicant

Name :

Address :

*Strike out if not applicable.

Note : Any existing/expired certificate should also be sent with this application.

FORM "B"

(See Rule 4)

Issued by Govt. of India.

No.....

Certificate of Insurance or other Financial Security in respect of Civil Liability for Oil Pollution Damage under Section 352 N of the Merchant Shipping Act, 1958.

(Issued under Rule 4 of the Merchant Shipping—Form of Certificate of Insurance for Civil Liability for (Oil Pollution Damage) Rules, 198..]

Name of ship	Distinctive number or letters	Port of Registry	Name and Address of owner
--------------	----------------------------------	---------------------	---------------------------------

This is to certify that there is in force in respect of the above named ship a policy of insurance or other financial security satisfying the requirements of Section 352 N of the Merchant Shipping Act, 1958.

Type of security.....

.....

Duration of Security from.....

.....to.....

Name and Address of the Insurer (s) and/or Guarantor(s)

Name

Address

This Certificate is valid untill

.....

Issued at..... on

SEAL :

Director General of Shipping

Date :

Published in the *Gazette of India (Ext.)*, Part II, Section 3(i), No. 208, dated May 8, 1985.

MINISTRY OF FINANCE

G.S.R. 414(E).—(*New Delhi, 8th May, 1985*).—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (1 of 1944) the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (6th Amendment) Rules, 1985**.

(2) They shall come into force on the date of their Publication in the Official Gazette.

2. In the Central Excise Rules, 1944,—

(a) in Chapter V, after section E-XII, the following shall be inserted, namely :—

‘E XIII.—Marble slabs.

96ZW. Application to avail of special procedure.—(1) Where a manufacturer who manufactures marble slabs with the aid of conventional gang saws makes in the proper form, an application to the collector in this behalf, the special provisions contained in this section shall, on such application being granted by the Collector, apply to such manufacturer in substitution of the provisions contained elsewhere in these rules, other than in this section, for the period in respect of which the application has been so granted.

(2) Such application shall be made each year and shall be accompanied by a certificate from the Director of Industries of the concerned State or the Union Territory, as the case may be, that the marble slabs are manufactured by the applicant using conventional gang saws.

(3) If at any time during the period for which the application of a manufacturer was granted, the manufacturer desires to withdraw his option for availing of the special provisions contained in this section, he shall give a notice in writing to the proper officer and the notice shall be so despatched as to ensure that it reaches the proper officer not less than thirty days before he desires to withdraw from such option, and where the manufacturer has so withdrawn his option, he shall be precluded from availing himself of such provisions for the remaining period for which the application was granted.

(4) If the manufacturer desires to avail himself of the special provisions contained in this section on the expiry of the period for which his application was granted, he shall make, before such expiry an application to the Collector under sub-rule (1); and on his failure to do so, he shall, unless the Collector is satisfied that such failure is for justifiable reasons, be precluded from availing himself of such provisions for a period not exceeding 12 months from the date of such expiry.

(5) Nothing contained in this rule shall apply to a manufacturer who manufactures marble slabs in the factory with the aid of any machines (other than edge-cutting machines) in addition to conventional gang saws.

96ZX. Discharge of liability for duty on payment of certain sum.—

(1) Having regard to the average production in India of marble slabs, falling under sub-item (2) of Item 23E of the First Schedule to the Act, per

week or per month or per year for different sizes of the conventional gang saws installed, for the manufacture of marble slabs and any other relevant factor, the Central Government may, by notification in the Official Gazette, fix from time to time a rate of duty per week or per month or per year, per each such conventional gang saw, subject to such conditions and limitations as it may think fit, and if a manufacturer whose application has been granted under rule 96ZW pays a sum calculated according to such rate of duty in the manner and subject to the conditions and limitations hereinafter laid down, such payment shall be a full discharge of his liability for the duty leviable on his production of such marble slabs during the period for which the said sum has been paid;

Provided that if there is an alteration in the rate of duty or in the limit of exemption, or both, the sum payable shall be recalculated on the basis of the revised rates or exemption limit, or both, from the date of alteration and liability for duty leviable on the production of marble slabs from that date shall not be discharged unless the differential duty is paid; should however, the amount of duty so recalculated be less than the sum paid, the balance shall be refunded to the manufacturer.

(2) The sum payable under sub-rule (1) shall be calculated by applying the appropriate rate to the number and size of conventional gang saws, declared by the manufacturer in the application made by him under rule 96ZY, and installed by him for the manufacture of marble slabs, and the sum aforesaid shall be payable from the date on which the conventional gang saws declared and installed, commence manufacturing operations and upto the end of the year.

Explanation.—For the purposes of this sub-rule, "Year" shall be reckoned from the 1st day of April, to the 31st day of March, of the year next following.

(3) Before commencing or closing its manufacturing operation fully or partially, every manufacturer shall give a notice in writing to the proper officer and the notice shall be so despatched as to ensure that it reaches the proper officer not less than seven days before such commencement or closing, as the case may be:

Provided that the Collector may, in exceptional circumstances, accept a notice shorter than seven days.

(4) The sum referred to in sub-rule (2) shall be tendered by the manufacturer, at the time of submission of the application under rule 96ZY, initially for a period of two weeks, and thereafter weekly payment shall be made by such manufacturer two days in advance of the week next following, so that at the beginning of every week such manufacturer's deposit shall be equal to the amount of duty payable by him for two weeks, and the balance out of the duty so deposited, if any, shall be adjusted at the end of the year, if so desired by the manufacturer who had made the deposit:

Provided that the Collector may, subject to the conditions as may be specified by him, permit a manufacturer to pay the sum payable under sub-rule (2) for a period longer than the said weekly period.

96ZY. *Manufacturer's declaration, accounts and returns.*—(1)(a) The manufacturer referred to in rule 96ZW shall, at any time, during the calendar month immediately preceding the year in respect of which he has

been permitted to avail himself of the provisions of this section, make an application to the proper officer in the proper form for leave to remove marble slabs from his licensed premises during the ensuing year, declaring therein the number and size of conventional gang saws installed or prepared to be installed.

(b) The permission so granted for a year shall be subject to the fulfilment of the condition of payment of sum under sub-rule (4) of rule 96ZX and such other conditions as may be specified.

(c) Failure to comply with such conditions shall render the said permission null and void.

(2) If such application is not made to the proper officer in accordance with sub-rule (1), or the payment of sum as required under sub-rule (4) of rule 96ZX is not made, the manufacturer shall, unless otherwise directed by the Collector and in exceptional circumstances, be liable to pay duty on his entire production of marble slabs during the year in respect of which the application was to be made, at the rate set forth in the First Schedule to the Act read with the relevant notification, if any, issued under sub-rule, (1) of rule 8.

(3) Such manufacturer shall also append to his monthly return in form R. T. 3 (modified) made under rule 54, a duly signed statement showing the number of days worked and the number and size of the conventional gang saws installed as well as employed on each such day during the month to which such return relates.

96ZZ. Exemption from certain provisions.—During the period in respect of which any manufacturer has been permitted to avail himself of the provision of this section, he shall be exempt from the operation of all the provisions of rules 9 (except the third proviso to sub-rule (1) thereof), 45, 47, 48, 49, 50, 51, 51A, 52, 52A, 53, 55, 223, 223A, 223B, 224, 224A, and 229.

96ZZZ. Penalty for misdeclaration.—A manufacturer who is found to have made an incorrect declaration under sub-rule (1) of rule 96ZY or to have furnished an incorrect return specified in sub-rule (3) of that rule, or to have committed a breach of any of the conditions specified in any notification issued under rule 95ZX shall be liable.—

(i) to pay the difference, if any between the sum actually tendered by him and sum properly payable within ten days of a demand for such difference being served upon by the proper officer ;

(ii) to confiscation of a part or the whole of the stock of marble slabs lying in the premises of his licensed factory at the time the incorrectness of the declaration or of the returns is discovered ;

(iii) to be debarred from availing of the special procedure specified in this section for such period as the Collector may deem fit ;

(iv) to a penalty not exceeding two thousand rupees.

96ZZZZ. Power to condone failure to apply for special procedure.—Notwithstanding anything contained in this section, the Collector may, at his discretion, and subject to such condition as he may lay down apply the provision contain in this section to a manufacturer who has failed to avail himself of the special procedure or to comply with any condition laid down in this section within the specified time limit.”;

(b) in Appendix I,—

(1) in (I) List of Central Excise Forms,—

(i) in Central Excise Series No. 56-A, in column (3) for the figures and letters "96S", the figures and letters, "96S, 96ZX (1), 96ZZZ(i)" shall be substituted ;

(ii) after Central Excise Series No. 62-C and the entries relating thereto, the following Series No. and entries shall be inserted namely :—

Central Excise Series No.	Description of Form	Rule No.	Short title
"62CC	Application for removal of marble slabs manufactured under the special procedure.	96ZY	A. R. 8A."

(iii) in entry No. 85,—

(A) in column (2), after the words "Khandasari Sugar", the words "marble slabs" shall be inserted ;

(b) in column (3), for the figures and letters "96ZP", the figures and letters "96ZH and 96ZW" shall be substituted ;

(2) in (II) Speciman Forms,—

(a) in Form DD2 (Central Excise Series No. 56-A), below the heading for the figures and letters "96S", wherever they occur, the figures and letters "96S, 96ZX(1), 96ZZZ (i)" shall be substituted ;

(b) after Form A.R. 8 (Central Excise Series No. 62-C), the following Form shall be inserted, namely :—

"Central Excise Series No. 62-CC,

Original

Duplicate

Triplicate

Quadruplicate

FORM A. R. 8A

Application for removal of marble slabs manufactured under the special procedure.

(Rule 96ZY)

Name of factory

Address

I/We manufacturer(s) of marble slabs residing at Taluka/Tehsil District
and holder(s) of Central Excise Licence No. dated
....., having been permitted to avail myself/ourselves of the special provision contained in section E-XIII of Chapter V of the Central Excise Rules, 1944, in respect of my/our production and transac-

tion in such marble slabs at the above mentioned factory/factories hereby declare that I/We intend to instal and employ the conventional gang saws for the production of marble slabs during the year..... in the manner indicated below and the total sum payable by me/us in terms of rule 96ZX in respect of the said period are stated hereunder :—

Frame size of conven- tional gang saws	No. of Conven- tional gang saws to be insta- lled and employed	Rate pres- cribed in Government of India Notification No. dated	Sum pay- able under rule 96ZX	total
(1)	(2)	(3)	(4)	(5)

2 I/We tendere herewith the sum of Rs.....(Rupees..... only). The balance will be paid by me/us in weekly instalments by 5th, 12th, 19th and of the month of.....

3. I/We hereby declare that the particulars furnished herein are true and complete to the best of my/our knowledge and belief.

4. I/We apply for leave to remove from the above mentioned premises during the period from to any marble slabs manufactured in the said premises during that period.

5. I/We understand that the permission accorded to me/us for the year.....is subject to my/our paying the balance amount as indicated in paragraph 2-above.

Signature of manufacturer(s)
or his/their authorised agent(s)

Place.....

Date

To

..... of Central Excise

.....

COUNTERSIGNED

Place

Dated

Statement of duty paid :

1. For payment in cash at

Central Excise
.....Range,
.....Circle

Treasury

Sub-treasury

State Bank of India,

Reserve Bank of India

[To be filled in by the manufacturer(s) or his/their authorised agent(s)]

Name of person tendering payment	Particulars of payment	Amount (to be entered in words as well as in figures)
(1)	(2)	(3)

Head of Account

038-Union Excise Duties—Marble Slabs—
(ii) Under the compounded levy scheme.

Date _____

Signature of tenderer
(To be filled in by the Treasury or Bank
CERTIFICATE)

Deposit Number _____

Received payment of rupees _____
(in words) _____

Date _____

Signature of Treasurer _____

Accountant _____

Treasury Officer _____

Agent or Manager _____

II. For payment through current account

Title of Account or Ledger	Number and date of entry	Amount Rs P.
1	2	3

Signature of manufacturer(s) of
his/their authorised agent(s)

Date.....

III. For payment through T. R. 5/Special Revenue Money order.

Date of payment	T.R. 5/No./Special Revenue Money Order Coupon	Amount Rs. P.
-----------------	--	------------------

Place.....

Clearance allowed subject to fulfil-
ment of the condition of weekly
deposits

Date.....

.....of Central Excise

Note : Delete the entries not applicable.”;

(c) after Form R. T. 3 (Central Excise Series No. 69), the following
form shall be inserted, namely :—

“Central Excise Series No. 69 (modified)

Original

Duplicate

Triplicate

Quadruplicate

Quintuplicate

"FORM R. T. 3 (Modified)Monthly return of marble slabs manufactured and issued
(Rule 54)

Range.....Code No.
 Year .. Division.....Code No.
 State.....Code No. Manufacturer (Code No.).....
 Type of Manufacturer (Code No.).....
 Name and address of the assessee.....
 Location of Factory.....
 Central Excise Licence No.
 Annual production capacity (on the basis of sanctioned installed capacity etc)....

Opening balance	Quantity manufactured during the month	Quantity removed from the factory	Closing balance
(1)	(2)	(3)	(4)

Amount of duty paid	
Particulars of	
Payment	Amount
(1)	(2)

I/We declare that I/We have compared the above particulars with the records and books of my/our/factory/warehouse and that the same are correctly stated.

Signature of assessee or his authorised agent,"

(d) in Form A:SP, (Central Excise Series No. 85),—

(i) in the heading, the words "/marble slabs" shall be added at the end.

(ii) for the figures and letters "96ZH", the figures, letters and word "96ZH and 96ZW" shall be substituted;

(iii) after the words, "Khandsari Sugar", wherever they occur, the words "/Marble slabs" shall be inserted;

(iv) for the words and figure "of Chapter V" the letters, figures and words "/E-XIII of Chapter V" shall be substituted.

Published in the *Gazette of India*, Extraordinary Part II, Section 3 (i), No. 412, dated September 16, 1985.

MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT

G.S.R. 73 (E) —(New Delhi, the 16th September, 1985).—In exercise of the powers conferred by sub-section (3) of section 1 of the **Multi-State Co-operative Societies Act, 1984** (51 of 1984), the Central Government hereby appoints the sixteenth day of September, 1985 as the date on which the said Act shall come into force.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(ii), No. 448, dated the September 18, 1985

MINISTRY OF RAILWAYS

S.O. 676(E).—(*New Delhi, the 18th September, 1985*)—In exercise of the powers conferred by the sub-section (2) of section 1 of the *Railway Protection Force (Amendment) Act, 1985* (60 of 1985), the Central Government hereby appoints the 20th September, 1985, as the date on which the said Act shall come into force.

Published in the *Gazette of India (Extraordinary)*, Part II, Section 3(ii), No. 409, dated the 26th August, 1985.

MINISTRY OF FINANCE

S. O. 629 (E).—(*New Delhi, the 26th August, 1985*).—In exercise of the powers conferred by sub-section (3) of Section 1 of the *Chit Funds Act, 1982* (40 of 1982), the Central Government hereby appoints the 1st day of September, 1985 as the date on which the provisions of the said Act shall come into force in the *State of Orissa*

Published in the *Gazette of India, (Extraordinary)*, Part II, Section 3(ii), No. 397, dated the 19th August, 1985.

MINISTRY OF COMMERCE

S.O. 611(E)/No. E(C)O, 1977/AM(310).—(*New Delhi, the 19th August, 1985*)—In exercise of the powers conferred by section 3 of the *Imports and Exports (Control) Act, 1947* (18 of 1947), the Central Government hereby makes the following order further to amend the *Exports (Control) Order, 1977*, namely :—

1. This Order may be called the *Export (Control) Fifteenth Amendment Order, 1985*.

2. In the *Export (Control) Order, 1977*, in Schedule I.—

(i) In Part 'A', the following item shall be added after serial number 74, namely :—

“75-Human Skeletons and parts thereof”.

(ii) In Part 'B', for the entry at serial number 13 (ii) the following shall be substituted, namely :—

“13(ii)—Skeletons, other than human skeletons and parts thereof”.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(ii) No. 396, dated August 19, 1985

MINISTRY OF LAW AND JUSTICE

S.O. 610(E).—(*New Delhi, the 19th August, 1985*)—In exercise of the powers conferred by section 1 of the *Dowry Prohibition (Amendment) Act, 1984* (63 of 1984), the Central Government hereby appoints the 2nd day of October, 1985 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Extraordinary)*, Part II, Section 3(i), No. 370, dated August 20, 1985.

MINISTRY OF FINANCE

G. S. R. 668 (E).—(*New Delhi, the 20th August, 1985*)—In exercise of the powers conferred by section 1 of the *Customs Tariff (Second Amendment) Act, 1982* (52 of 1982), the Central Government hereby appoints the 2nd

day of September 1985, as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Extraordinary)*, Part II, Section 3(i)

No. 403, dated September 6, 1985

MINISTRY OF INDUSTRY AND COMPANY AFFAIRS

G.S.R. 726(E).—(*New Delhi, the 3rd September, 1985*).—Whereas a draft of certain rules further to amend the Petroleum Rules, 1976, was published as required by sub-section (2) and (3) of section 29 of the Petroleum Act, 1934 (30 of 1934), with the notification of the Government of India in the Ministry of Industry (Department of Industrial Development) No. G.S.R. 8(E), dated 27th December, 1984 in the *Gazette of India Extraordinary*, Part II, Section 3, sub-section (i), dated the 2nd January, 1985, inviting objections or suggestions from all persons likely to be affected thereby before the expiry of 45 days from the date of publication of the notification in the Official Gazette;

And whereas no objection or suggestions were received from the public on the said draft by the Central Government;

Now, therefore, in exercise of the powers conferred by section 3; sub-section (2) of section 14, section 21 and sub-section (1) of section 29 of the Petroleum Act, 1934 (30 of 1934), the Central Government hereby makes the following rules further to amend the Petroleum Rules, 1976, namely:—

1. (1) These rules may be called the **Petroleum (Amendment) Rules, 1985.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Petroleum Rules, 1976—

(i) in rule 67, after sub-rule (3), the following sub-rule shall be inserted, namely:—

“(4) Petroleum Class A otherwise than in bulk shall not be transported in a trailer attached to any vehicle”.

(ii) in rule 70—

(a) for clause (i) of sub-rule (1), the following clause shall be substituted, namely:—

“(i) the engine shall be diesel engine or an internal combustion engine”.

(b) after sub-rule (3), the following proviso shall be inserted namely—

“Notwithstanding anything contained in this rule, provisions of sub-rules (1) to (3) except clauses (i) and (iii) of sub-rule (1), shall not apply for transportation of Petroleum Class ‘A’ otherwise than in bulk exclusively used by helicopters and aeroplanes for aerial crop spraying purposes only”.

(iii) in rule 71 after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that the provisions of this rule except clause (i) and sub-clause (a) of clause (ii) shall not apply for transportation of petroleum class A otherwise than in bulk exclusively used by helicopters and aeroplanes for aerial crop spraying purposes only”.

Published in the *Gazette of India (Ext.)* Part II, Section 3(ii),
No. 388, dated 12th August, 1985.

MINISTRY OF FINANCE

S. O. 602 (E).—(*New Delhi, the 12th August, 1985*).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the **Income-tax (Sixth Amendment) Rules, 1985**.

(2) They shall be deemed to have come into force on the 1st day of April, 1985.

2. In the Income-tax Rules, 1962,—

(a) in rule 6G,—

(i) in the marginal heading, for the word published", the word "furnished" shall be substituted;

(ii) in sub-rule (1), in clause (a), the words "by an accountant", shall be omitted;

(b) in Appendix II, in Form No. 3CA,—

(i) in the heading, for the words "any law by an accountant", the words "any other law" shall be substituted;

(ii) in paragraph 1, the words "chartered accountants/auditors of companies" shall be omitted;

(iii) for the words "Signed Accountant", occurring at the end the word "signed shall be substituted;

(iv) in Note 3,—

(i) in item (ii), for the words "that State", the words "that State ; or" shall be substituted;

(2) after item (ii), the following item shall be inserted, namely :—

"(iii) any person who is, by virtue of any other law, entitled to audit the accounts of the assessee for the relevant previous year."

Published in the *Gazette of India, Extraordinary*, Part II, Section 3 (i),
No. 366 dated August 19, 1985.

MINISTRY OF LAW AND JUSTICE

G.S.R. 664 (E).—(*New Delhi, the 1th August, 1985*).—In exercise of the powers conferred by section 9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby make the following rules, namely:—

1. *Short title and commencement*.—(1) These rules may be called the **Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985**.

(2) They shall come into force on the 2nd day of October 1985 being the date appointed for the coming into force of the Dowry Prohibition (Amendment) Act, 1984 (63 of 1984).

2. *Rules in accordance with which lists of presents are maintained*—(1) The list of presents which are given at the time of the marriage to the bride

shall be maintained by the bride.

(2) The list of presents which are given at the time of the marriage to to the bridegroom shall be maintained by the bridegroom.

(3) Every list of presents referred to in sub-rule (1) or sub-rule (2),—

(a) shall be prepared at the time of the marriage or as soon as possible after the marriage.

(b) shall be in writing;

(c) shall contain,—

(i) a brief description of each present;

(ii) the approximate value of the present;

(iii) the name of the person who has given the present; and

(iv) where the person giving the present is related to the bride or bridegroom, a description of such relationship;

(d) shall be signed by both the bride and the bridegroom.

Explanation 1.—Where the bride is unable to sign, she may affix her thumb-impression in lieu of her signature after having the list read out to her and obtaining the signature, on the list, of the person who has so read out the particulars contained in the list.

Explanation 2.—Where the bridegroom is unable to sign, he may affix his thumb-impression in lieu of his signature after having the list read out to him and obtaining the signature on the list, of the person who has so read out the particulars contained in the list.

(4) The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any relations of the bride or the bridegroom, or of any other person or persons present at the time of the marriage.

Published in the *Gazette of India (Extraordinary)*, Part II, Section 3(i), No. 320, dated July 22, 1985.

MINISTRY OF FINANCE

G.S.R. 598(E)—(*New Delhi, the 22nd July 1985*)—In exercise of the powers conferred by section 3 of the Public Provident Fund Act, 1968 (23 of 1968), the Central Government hereby makes the following scheme further to amend the Public Provident Fund Scheme, 1968, namely :—

1. (1) This scheme may be called the **Public Provident Fund (Amendment) Scheme, 1985**.

(2) It shall come into force on the date of its publication in the Official Gazette.

2 In the Public Provident Fund Scheme, 1968 (hereinafter referred to as the said Scheme), paragraph 3 shall be renumbered as sub-paragraph (1) therefore, and after sub-paragraph as so renumbered, the following sub-paragraph shall be inserted, namely :—

“(2) Notwithstanding anything contained in sub paragraph (1), an individual who is a member of a Hindu Undivided Family may also subscribe to the Fund on behalf of and out of the income of the Hindu Undivided Family, any amount not less than Rs. 100 and not more than Rs. 40,000 in a year.”

3. In sub-paragraph (1) of paragraph 4 of the said Scheme, after the words “either in his own behalf or on behalf of a minor of a Hindu Undivided Family of which he is a member” shall be inserted.

4. In sub-paragraph (1) of paragraph 9 of the said Scheme,—

(a) for the words “sixth year”, the words “fourth year” shall be substituted ;

(b) for the proviso, the following provisos shall be substituted, namely :—

“Provided that the total number of withdrawals permissible during the period of fifteen years (reckoned from the end of the year in which the account was opened) shall not exceed four ;

Provided further that not more than one withdrawal shall be permissible during any one year.”

5. In paragraph 11 of said Scheme,—

(a) in sub-paragraph (1) and proviso to sub-paragraph (2), for the words “twenty-four”, wherever they occur, the words “thirty-six shall be substituted ;

(b) for sub-paragraph (3), the following sub-paragraph shall be substituted, namely:—

“(3) The interest on the amount of loan outstanding under the proviso to sub-paragraph (2) and any portion of interest payable, but not paid, on any loan, the principle amount of which has already been repaid within the prescribed period of thirty-six months, may, on becoming due, be debited to the subscriber's account.”

6. In Form A appended to said Scheme,—

(a) the entry “I hereby declare that I am not maintaining any other Public Provident Fund Account” shall be renumbered as entry (i) and in entry (i) as so renumbered, before the brackets and figure “(i)”, the abbreviation “*” shall be inserted ;

(b) after entry (i) as so renumbered, the following entry shall be inserted, namely:—

“(ii) I hereby declare that I am not maintaining any other Public Provident Fund Account except an account on behalf of a minor or an account for getting the benefit for Hindu Undivided Family under section 80C(2)(b)(i)(2) of the Income-tax Act, 1961 (43 of 1961)”;

(c) below the entry “Additional Specimen”, the following notes shall be inserted, namely:—

“Note 1 : Under the Public Provident Fund Scheme normally an individual can have an account on his own behalf or on behalf of a minor of whom he is the guardian. However, an individual who is a member of a Hindu Undivided Family can open another account for contributions to the Fund on behalf of and out of the income of the Hindu Undivided Family. In the latter case, the letters “H.U.F.” should be added after the name of the subscriber.

Note 2 : *Delete whichever is not applicable.”

7. In Form E appended to the said Scheme, after the column with the heading “Date of birth of nominee in case of minor”, a new column with the heading “Proportionate amount for each nominee” shall be inserted

8. In Form F appended to the said Scheme, after the column with the heading “Date of birth of the nominee in case he is a minor”, a new column with the heading “Proportionate amount for each nominee” shall

be inserted.

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(ii),
No. 429, dated September 6, 1985,

MINISTRY OF COMMERCE

S. O. 655(E)/No. E(C)O, 1977/AM(312).—(*New Delhi, the 6th September, 1985*).—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following order further to amend the Exports (Control) Order, 1977, namely:—

1. This Order may be called the **Exports (Control) Seventeenth Amendment Order, 1985**.

2. In the Exports (Control) Order, 1977 :—

(i) In Schedule I, part 'B' after serial number 73 (il) and the entry relating thereto the following shall be inserted, namely :—

"73(iii)—Hand knotted/woven/woollen carpets of Persian/Mubarik design above 32000 knots per square metre",

(ii) In Schedule III, in OGL-3.—(a) for the existing condition number (ii) appearing in column 4 against serial number 64(i), the following shall be substituted, namely :—

"Export shall be allowed on outright sale basis. Shipments shall not be permitted on Documents against Acceptance (D/A) basis unless the same are backed by Bank Guarantee";

(b) for the existing conditions numbers 1(iii) and 2(ii) appearing in column 4 against serial number 64(ii) the following shall be substituted, at both the place, namely :—

"Export shall be allowed on outright sale basis. Shipments shall not be permitted on Documents against Acceptance (D/A) basis unless the same are backed by Bank Guarantee";

(c) after serial number 64(ii) the following item shall be inserted, namely :—

1	2	3	4
"64(iii)	Hand knotted woven/woollen carpets of Persian/Mubarik designs above 32000 knots per square metre.	B.73 (iii)	Export shall be allowed to all destinations except countries having a common land frontier with India subject to the following conditions:— Export shall be allowed on outright sale basis. Shipment shall not be permitted on Documents against

1	2	3	4
			Acceptance (D/A) basis unless the same are backed by Bank Guarantee."

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(ii), No. 342, dated 17th July, 1985.

MINISTRY OF FINANCE

S.O. 529(E).—(*New Delhi, the 17th July, 1985*)—In exercise of the powers conferred by section 295, read with section 80U, of the Income-tax Act, 1961 (43 of 1961) the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income-tax (Fourth Amendment) Rules, 1985**.

(2) They shall be deemed to have come into force on the 1st day of April, 1985.

2. In the Income-tax Rules, 1962, in the Part II, after rules 11C, the following rule shall be inserted, namely :—

"Permanent Physical Disabilities for the Purposes of Deduction under Section 80U

"11D. A permanent physical disability shall be regarded as a permanent physical disability for the purposes of clause (ii) of sub-section (1) of section 80U if it falls in any one of the categories specified below, namely :—

(a) permanent physical disability of more than 50 per cent in one limb ;

or

(b) permanent physical disability of more than 60 per cent in two or more limbs ; or

(c) permanent deafness with hearing impairment of 71 decibels and above ; or

(d) permanent and total loss of voice."

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(i), No 366, dated 30th July, 1985.

MINISTRY OF FINANCE

New Delhi, the 30th July, 1985

S.O. 559 (E).—In exercise of the powers conferred by sub-section (4) of section 9 of the **Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970** (5 of 1970), the Central Government, after consultation with the Reserve Bank of India, hereby makes the following scheme further to amend the **Nationalised Banks (Management and Miscellaneous Provisions Scheme* 1970**, namely :—

1. (1) This scheme may be called the **Nationalised Banks (Management and Miscellaneous Provisions) (Second Amendment) Scheme, 1985**.

(2) It shall come into force on the date of its publication in the **Official Gazette**.

2 In the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970,—

(a) clause 9 shall be renumbered as sub-clause (1) thereof and after sub-clause (1) as so renumbered, the following sub-clause shall be inserted, namely :—

“(2) Subject to the provisions of sub-clause (1), such director shall hold office for such term, not exceeding three years, as the Central Government may specify at the time of his appointment ;

(b) for sub-clause (5) of clause 12, the following sub-clause shall be substituted, namely :—

“5 The quorum for a meeting of the Board shall be one-third of the number of directors holding office as such directors of the Board on the day of the meeting, subject to a minimum of three directors ”

S. O 560(E).—In exercise of the powers conferred by sub-section (4) of section 9 of the **Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980** (40 of 1980), the Central Government, after consultation with the Reserve Bank of India, hereby makes the following scheme further to amend the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980 namely :—

1 (1) This scheme may be called the **Nationalised Banks (Management and Miscellaneous Provisions) (Second Amendment) Scheme 1985**.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980,—

(a) clause 9 shall be renumbered as sub-clause (1) thereof and after sub-clause (1) as so renumbered the following sub-clause shall be inserted, namely :—

“(2) Subject to the provisions of sub-clause (1), such director shall hold office for such term, not exceeding three years, as the Central Government may specify at the time of his appointment.”

(b) for sub-clause (5) of clause 12, the following sub-clause shall be substituted, namely :—

“(5) The quorum for a meeting of the Board shall be one-third of the number of directors holding office as such directors of the Board on the day of the meeting subject to a minimum of three directors.”

Published in the *Gazette of India*, (Ext), Part II, Section 3(i),

No 370, dated 31st July, 1985.

MINISTRY OF FINANCE

S. O. 568(E).—(New Delhi, the 31st July, 1985).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income-tax (Fifth Amendment) Rules, 1985**.

(2) They shall come into force on the 1st day of August, 1985.

2. In the Income-tax Rules, 1962,—

(a) in rule 67A, in the Explanation, after the words "step-children", the words, "deceased son's widow, deceased son's legitimate children, deceased son's step-children" shall be inserted ;

(b) in rule 68, in sub-rule (1),—

(i) in clause (aa)

(1) in sub-clause (i), for the words "High school", the words "matriculation" shall be substituted ;

(2) in sub-clause (ii), for the words "High school stage, provided that the course of study is for not less than three years", the words "matriculation stage" shall be substituted ;

(ii) in clause (d),—

(1) after the words "purchasing a site", the words "or a house" shall be inserted ;

(2) in the existing proviso, after the words "such house or site", the words "or such house and site" shall be inserted ;

(3) after the proviso as so amended, the following proviso shall be inserted, namely :—

"Provided further that in the case of an employee whose pay does not exceed rupees one thousand and six hundred per month, such house or site or such house and site shall not be deemed to be an encumbered property merely because such house or site or such house and site is—

(i) mortgaged, solely for having obtained funds for the purchase of the said house or site or the said house and site or for the building of such house to any of the following agencies, namely, (a) the Central Government ; (b) a State Government ; (c) a co-operative society, being a society registered or deemed to be registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State relating to co-operative societies ; (d) an institution ; (e) a trust ; (f) a local body ; or (g) a housing finance corporation ; or

(ii) held in the name of any of the aforesaid agencies and the employee is precluded from transferring or otherwise disposing of that house or site or that house and site without the prior approval of such agency." ;

(iii) after clause (g), the following clause shall be inserted, namely :—

(h) in the case of an employee whose pay does not exceed rupees one thousand and six hundred per month,—

(i) to meet his household expenses if a factory or other establishment, wherein he is working, is locked up or closed down for more than fifteen days for reasons other than a strike rendering him unemployed without any compensation or if he is not in receipt of wages for a continuous period of two months or more ;

(ii) to meet his household expenses if the factory or other establishment, wherein he is working, suffers cut in supply of electricity resulting in a loss of one-fourth or more of the total wages of the employee ;

(iii) to meet the cost of purchasing an equipment required by a physically handicapped employee which will minimise his hardship on account of the handicap.

Explanation—For the purposes of this clause, "pay" shall have the meaning assigned to it in the Explanation to sub-rules (2A) and (2B) of rule 69. ;

(i) in rule 69,—

(i) for sub-rule (1), the following sub-rules shall be substituted, namely :—

“(1) The withdrawal in connection with expenses on marriages as specified in clause (c) of sub-rule (1) of rule 68, by an employee whose pay exceeds rupees one thousand and six hundred per month, shall not exceed six months' pay or the total of the accumulation of exempted contributions and exempted interest laying to the credit of the employee, whichever is less.

(1A) The withdrawal for the purposes specified in clause (aa) and clause (c) of sub-rule (1) of rule 68, by an employee whose pay does not exceed rupees one thousand and six hundred per month, shall be subject to the following conditions, namely :—

(a) the amount of withdrawal shall not exceed one-half of the employee's contributions to the fund with interest thereon ;

(b) the employee shall have completed seven years of service ;

(c) the amount of the employee's contributions to the fund with interest thereon is not less than rupees one thousand ;” ;

(ii) in sub-rule (2A), for clause (i), the following clause shall be substituted, namely :—

“(i) the amount of withdrawal shall not exceed—

(a) the employee's basic wages and dearness allowance for twenty-four months ; or

(b) the actual cost of building the house, or of purchasing the house or the site or the house and the site ; or

(c) the employee's contribution to the fund together with the specified percentage of the employer's contributions to that fund with interest thereon ;

Explanation.—For the purposes of sub-clause (c), “specified percentage” means—

(1) 75 per cent of the employer's contribution forming part of the accumulation as on the date of the authorisation of payment, if the period of membership of the employee in the fund is five years or more, but less than ten years ;

(2) 85 per cent of such contribution, if the period of membership of the employee in the fund is 10 years or more, but less than 15 years ; and

(3) 100 per cent of such contribution, if the period of membership of the employee in the fund is 15 years or more ;” ;

(iii) in sub-rule (2B), for the words “up to six months' basic wages”, the words “up to twelve months' basic wages” shall be substituted ;

(iv) in sub-rule (4), after the words and figures “rule 68” the words brackets, figure and letter, “except as provided in sub-rule (1A)” shall be inserted ;

(d) in rule 70,—

(i) in sub-rule (1), after the words, brackets and figure “sub-rule (2)”, the words, brackets and figure “and sub-rule (3)” shall be inserted ;

(ii) after sub-rule (2), the following sub-rule shall be inserted, namely :—

“(3) A withdrawal, referred to in clause (a) of sub-rule (2), of an amount equal to the difference between the amount of withdrawal admissi-

ble under sub-rule (2A) of rule 69 as on the date of application and the amount actually withdrawn by the employee for the purpose specified in clause (d) of sub-rule (1) of rule 68 any time during six years preceding the 3rd day of October, 1981, may be permitted to the employee, whose pay does not exceed rupees one thousand and six hundred per month, subject to the following conditions, namely:

(i) the employee had availed the first withdrawal for purchase of a site and now proposes to construct a house on the site so purchased; or

(ii) the employee had availed the first withdrawal for making initial payment towards allotment or purchase of a house from any of the agencies referred to in the second proviso to clause (d) of sub-rule (1) of rule 68 and now proposes to withdraw the amount for completing the transaction and for acquiring ownership of the house so purchased; or

(iii) the employee had availed the first withdrawal for construction of a house but the said construction could not be completed due to shortage of funds."

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(i), No. 287, dated 4th July, 1985.

MINISTRY OF HEALTH AND FAMILY WELFARE

G.S.R. 550(E).—(*New Delhi, the 4th July, 1985*).—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955, were published as required by sub-section (1) of section 23 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) with the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. G.S.R. 699, dated the 5th August, 1982, and subsequently republished with the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. G.S.R. 488(E), dated the 2nd July, 1984 in the *Gazette of India, Extraordinary*, Part II, section 3 Sub-section (i) dated the 2nd July 1984, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of ninety days from the date on which copies of the Official Gazette in which the last-mentioned was published were made available to the public;

And whereas the copies of the said Gazette were made available to the public on the 2nd July, 1984;

And whereas the objections and suggestions received from the public on the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government, after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely:—

RULES

1. (1) These rules may be called the Prevention of Food Adulteration (Fifth Amendment) Rules, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette except sub-rule (a) of rule 2 and rule 3 which shall come into force immediately after one year from the date of such publication.

2. In the Prevention of Food Adulteration Rules, 1955, (hereinafter referred to as the said rules), in the Table below rule 22,—

(a) against item 1, for the figures and letters "220 ml", the figures and letter "250 ml"; shall be substituted;

(b) in item 32, for the words "Dried Milk", the words "Milk powder, skimmed milk powder, partly skimmed milk powder, malted milk food and such other powders containing milk as major ingredient" shall be substituted.

3. In rule 49 of the said rules, after sub-rule (15), the following sub-rule shall be inserted, namely :—

"(16) Milk powder and condensed milk shall not be sold except under Indian Standard Institution Certification mark".

4. In Appendix 'B' to the said rules,—

(i) for item A.11.01.01, the following item shall be substituted, namely ;—

"A.11.01.01—Milk is the normal mammary secretion derived from complete milking of healthy milch animal without either addition thereto or extraction therefrom. It shall be free from colostrum. Milk of different classes and of different designations shall conform to the standards laid down in the Table below item A.11.01.11" ;

(ii) in item A.11.01.02,—

(a) for the words "milk and milk products", "milk product" and "milk or milk product", wherever they occur, the words "milk of different classes" shall be substituted

(b) the "Explanation" occurring at the end shall be omitted ;

(iii) in item A.11.01.06,—

(a) for the words "standardised to a fat percentage", the words "standardised to fat and solids-not-fat percentage" shall be substituted ;

(b) for the words "abstraction and/or addition of milk fat, or by the addition of skimmed milk or by addition of recombined or reconstituted skimmed milk", the words "adjustment of milk solids shall be substituted;

(iv) in item A.11.01.08, for the words "with nonfat milk solids or milk powder, and water, or by partial abstraction/addition or fat from/to milk", the words "that has been standardised to fat and solids-not-fat percentage given in the Table below item A.11.01.11 by adjustment of milk solids" shall be substituted ;

(v) in item A.11.01.09, for the words "with non-fat-milk solids and water, or by partial abstraction/addition to fat from/to milk", the words "that has been standardised to fat and solids not-fat percentage given in the Table below item A.11.01.11, by adjustment of milk solids" shall be substituted;

(vi) in items A.11.02.04 and A.11.02.05 the following, shall, respectively, be added at the end, namely :—

"Milk solids may also be used in preparation of this product" ;

(vii) in item A.11.02.07.01, the following shall be added at the end, namely :—

"either singly or in combination. It may contain Calcium Chloride (anhydrous) not exceeding 0.02 per cent by weight" ;

(viii) in item A.11.04.08, the following shall be added at the end, namely :—

“In case of ice-cream, where the chocolate or like covering portion forms a separate layer, only the icecream portion shall conform to the standards of icecream” ;

(ix) in item A.11.02.16, for the words and figures “fat content of the product shall be between 1.6 and 24.0 per cent”, the words and figures “fat content of the product shall be more than 1.5 and less than 26.0 per cent” shall be substituted ;

(x) in item A.11.02.17,—

(a) after the words “sheep milk” the words “or milk solids” shall be inserted ;

(b) the following shall be added at the end, namely

“It may contain citric acid not more than 0.1 per cent by weight”.

Published in the *Gazette of India (Ext.)*, Part II, Section 3(ii), No. 324, dated July 4, 1985.

MINISTRY OF STEEL, MINES AND COAL

S. O. 507(E)/ESS/Iron and Steel —(New Delhi, the 1st July, 1985)—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955, (10 of 1955), The Central Government hereby makes the following order further to amend the Iron and Steel (Control) Order, 1956, namely :—

1. (1) This order may be called the **Iron and Steel (Control) (Amendment) Order, 1985** ;

(2) It shall come into force on the date of its publication in the Official Gazette

2. In the Iron and Steel (Control) Order, 1956,—

(1) in clause 2, for sub-clause (j) the following sub-clause shall be substituted, namely :—

“(j) scrap means fresh unused defective iron and steel materials and rerollables scrap and melting scrap of all categories. For purposes of this order rerollable scrap shall mean—

“(a) all seconds/second grade/defectives/cuttings of semis/bars/rails/structurals ;

(b) plate cuttings ; and

(c) used rails/structurals with length 1800 mm maximum, width 600 mm maximums and Thickness 5 mm and above.

(d) scrap ingot mould.” ;

(2) in clause 28B, for sub-clause (1) (c), the following sub-clause shall be substituted, namely :—

“(1) (c) if he is found to have submitted any false documents or to have made any misrepresentation in acquiring or seeking to acquire any such material” ;

(3) after clause 28B, the following new clause shall be inserted, namely—

“28C. No order of suspension, revocation or debarring of a person from receiving iron or steel or scrap made by the Controller in terms of clauses 11A, 23A, 28A. or 28B shall be called in question in any proceedings before any appellate authority merely on the ground that in the course of discharge of duties as Controller, the Controller had dealt with the mat-

ter earlier or that he had issued or directed the issue of the show cause notice, as the case may be to such person”;

(4) for the FIRST SCHEDULE, the following shall be substituted, namely :—

FIRST SCHEDULE

(See Clause 3)

Iron and Steel to which Part II applies

Iron and Steel and products thereof, the following, namely—

- (1) Pig iron and sponge iron ;
- (2) Ingots, blooms, billets, slabs sheet bars (including tinplate bars) and hoe bars including shell steel ingots, blooms, billets and bars ;
- (3) Bars (including flats, squares and rounds) and rods including wire rods of iron and steel whether in straight lengths or in coils ;
- (4) Railway track construction material and railway material including the following,—
 - (i) rails, sleepers, fish plates, crossing sleepers and sleeper bars ;
 - (ii) tyres, wheels and axles ;
- (5) Angles, shapes and sections of iron or steel ;
- (6) Hoops, strips, box strapping and skelp of iron or steel whether galvanised or not ;
- (7)

(i) Coils (ii) Sheets (iii) Plates, and (iv) Universal plates.	}	Hot or cold rolled whether coated or not and both in carbon steel as well as in special steel or special specifications ;
---	---	---
- (8) Galvanised/coated sheets both plain as well as corrugated ;
- (9) Tinplate both prime and waste, terne plates including tin free steel sheets ;
- (10) Heavy structurals (including heavy sections of joints, channels and angles) ;
- (11) Medium structurals (including medium sections of joints, channels and angles) ;
- (12) Light structurals (including light sections of joints, channels, angles and light rails of 30 lbs. and under) ;
- (13) Tees ;
- (14) Spring steel in any form unfabricated or semi-fabricated ;
- (15) Alloy steel including stainless steel of all grades in any form unfabricated or semi-fabricated ;
- (16) Iron or steel wire whether or not coated, plain or barbed but not insulated” ;
- (5) in the SECOND SCHEDULE, after the nomenclature “Ferro-titanium”, the following shall be inserted, namely—

“Ferro silico magnesium
 Ferro niobium/ferro columbium
 Ferro silico zirconium
 Ferro boron”.

Published in the *Gazette of India, (Ext.)*, Part II, Section 3(i),
No. 355, dated 5 July 30, 1985,

MINISTRY OF LABOUR

G. S. R. 614 (E).—(*New Delhi, the 30th July, 1985*)—Whereas the draft of certain regulations further to amend the Coal Mines Regulations, 1957, was published as required by sub-section (1) of section 59 of the Mines Act, 1952 (35 of 1952), in the *Gazette of India, Extraordinary*, Part II—Section 3, Sub-section (1), dated the 6th September, 1984 under the notification of the Government of India in the then Ministry of Labour and Rehabilitation (Department of Labour), No. G.S.R. 650(E), dated the 6th September, 1984, inviting objections or suggestions from all persons likely to be affected thereby till the expiry of a period of three months from the date of publication of the said notification in the Official Gazette;

And whereas the said Gazette was made available to the public on the 6th September, 1984;

And whereas the objections and suggestions received from the public on the said draft have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 57 of the said Act, the Central Government, after referring the said draft to the Mining Boards constituted under the said Act and after giving such Boards a reasonable opportunity of reporting as to the expediency of making of the said regulations and as to the suitability thereof as required by sub-section (4) of section 59 of the said Act hereby makes the following regulations, further to amend the Coal Mines Regulations, 1975, namely:—

1. (1) These regulations may be called **the Coal Mines (Amendment) Regulations, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Coal Mines Regulations, 1957 (hereinafter referred to as the said regulations) in sub-regulation (1) of regulation 3, after the words and figure "Form I", the following shall be inserted, namely:

"And a copy thereof shall be submitted to the regional inspector. The Form shall be accompanied by a plan showing the boundaries of the mine and the shafts or openings of the mine, trifunction or revenue pillars and other prominent and permanent surface features."

Provided that, in respect of a mine which has already been opened such a plan shall be submitted within sixty days of coming into force of the Coal Mines (Amendment) Regulations, 1985.

Provided further that if the boundary of a mine is changed as per sub-regulation (1) of regulation 107, a plan showing the new boundary, shall be submitted within seven days of the said change.

3. After regulation 8 of the said regulations, the following regulation shall be inserted, namely:—

"8A. *Appointment of agent.*—(1) The owner of a mine shall submit in writing to the Chief Inspector and the Regional Inspector, a statement showing name and designation of every person authorised to act on behalf of the owner in respect of management, control, supervision or direction of the mine.

(2) The statement shall also show the responsibilities of every such

person and the matters in respect of which he is authorised to act on behalf of the owner.

(3) Every such person shall be deemed to be agent for the mine or group of mines, as the case may be, in respect of the responsibilities as specified in such statement

(4) The statement aforesaid shall be submitted within one month from the date of coming into force of the Coal Mines (Amendment) Regulations, 1985, in the case of mines already opened, or reopened as the case may be, and in other case within one month from the date of opening or reopening of the mine.

(5) Any change, addition or alteration in the names or other particulars of the aforesaid statement shall be reported in writing to the Chief Inspector and the regional inspector within seven days from the date of such change, addition or alteration."

4. In sub-regulation (2) of regulation 9 of the said regulations, for the words and figures, "under sub-regulation (1), the owner agent or manager shall within 24 hours of his being informed of the death", the words and figures, "under sub-regulation (1) or if an injury other than the serious injury becomes serious, the owner, agent or manager shall within 24 hours of his being informed of the same", shall be substituted

5. In the proviso to sub-regulation (1) of regulation 13 of the said regulations, the words "holding a degree or diploma in mining approved by the Board in the behalf" shall be deleted.

6. In sub-regulation (2) of regulation 16 of the said regulations, for the proviso the following proviso shall be substituted, namely :—

"Provided that the Board may approve a part of the period of practical experience which has been obtained in any of the aforementioned capacities in an opencast mine or in a mine other than a coal mine or in any mine which is under development, or a part of the period of the experience gained while engaged in inspection, rescue, research, planning or any other work, connected with mining operations, upto a period not exceeding one year in case of Second Class and one and a half years in case of First Class Manager's Certificate."

7. In sub-regulation (1) of regulation 21 of the said regulations,—

(i) for the words, "if he passes", the words "if he possesses such experience and passes" shall be substituted ;

(ii) after sub-regulation (1), the following proviso shall be inserted, namely :—

Provided that the Board may, subject to such conditions as it may specify, exempt any person from appearing at the examination or part thereof for the grant of an Exchange Certificate."

8. After sub-regulation (i) of regulation 27 of the said regulations, the following sub-regulation shall be inserted, namely :—

(2) (a) A medical examination undergone in accordance with rule 29B of the Mines Rules, 1955 shall also be deemed to be an examination for the purpose of sub-regulation (1).

(b) The application for endorsement on a certificate by the Regional Inspector shall be accompanied by the certificate of fitness granted in terms of rule 29B of the Mines Rules, 1955 and a fee of five rupees."

9. For regulation 30 of the said regulations, the following regulation shall be substituted, namely :—

“30. *Definition*.—For the purpose of these regulations,—

(a) all excavations within the mine boundary and all premises, plants, machinery and works as specified in clause (j) of sub-section (1) of section 2 of the Act shall collectively constitute the mine;

(b) the expression, “average output” of any mine, means the average per month during the preceding financial year of the total output from all excavations within the specified mine boundaries.

Explanation.—For the purpose of this clause, expression “financial year” means a period of twelve months from the first day of April to the last day of March.”

10. For regulation 107 of the said regulations, the following regulation shall be substituted, namely :—

“107. *Working near mine boundaries*.—(1) The owner, agent or manager of every mine shall have fixed boundaries of the mines and notwithstanding anything contained in sub-regulation (2), these shall not be changed except with the express permission of the Chief Inspector in writing and subject to such conditions as he may specify therein.

(2) No working shall be made within a distance equal to half the distance as specified in column (5) of table under sub-regulation (4) of regulation 99, corresponding to the depth of the seam being worked of the boundary of any mine and in case of a disputed boundary no working shall be made within the aforesaid distance of the boundary claimed by the owner of an adjacent mine until such time as a binding agreement has been reached as to the correct boundary or the question has been finally determined by a court of law;

Provided that, where work is done in more than one seam, the barrier kept at the boundary shall, as far as practicable, be vertically coincident and of the same dimensions :

Provided further that, where the workings of any seam, for any reason, are extended or get extended within any shorter distance than what is laid down herein above, the Chief Inspector may, by an order in writing, require the owner to construct such protective works within such time as he may specify in the order.

(3) Notwithstanding anything contained in sub-regulation (2), the Chief Inspector may, by an order in writing and subject to such conditions as he may specify therein, permit the workings of any mine or part thereof to extend within any workings of any mine or part thereof to extend within any shorter distance than what is laid down in sub-regulation (2) or may require that the said working shall not extend further than a specified distance.”

11. After regulation 191C of the said regulations, the following regulation shall be inserted, namely :—

“191D. *Use, supply and maintenance of self-rescuer*—(1) No person shall go into, work or be permitted to go into or work belowground in any gassy mine of third degree and after one and three years of the coming into force of the Coal Mines (Amendment) Regulation, 1985 in any gassy mine of second and third degree respectively unless he is provided

with and carries with him a self-rescuer of such type as may be approved by the Chief Inspector by a general or special order in writing.

(2) If such a self-rescuer is accidentally damaged during use or goes out of order or becomes unserviceable on having gained weight in excess of specified limits or having exceeded its specified life or has been used the owner, agent or manager shall immediately replace such self-rescuer.

(3) The owner, agent or manager of every mine where self-rescuers are to be used, shall—

(a) at all times keep sufficient stock of self-rescuers so that they are readily available whenever needed;

(b) provide, at the mine, adequate arrangements for cleaning, maintenance and inspection of self-rescuers;

(c) ensure that every person who may be required to use self-rescuer under sub-regulation (1) undergoes a course of training in the use of self-rescuer, as may be specified by the Chief Inspector by a general or special order in writing."

12. For regulation 199 of the said regulations, the following regulations shall be substituted, namely:—

"199. *Place of Accident not to be disturbed.*—

(1) Whenever there occurs in or about a mine an accident causing loss of life or serious bodily injury to any person, the place of accident shall not be disturbed or altered before the arrival of without the consent of the Chief Inspector or the inspector to whom notice of the accident is required to be given under sub-section (1) of section 23, unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased, or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine:

Provided that where the Chief Inspector or the said inspector fails to inspect the place of accident within seventy-two hours of the time of the accident, work may be resumed at the place of accident.

(2) Before the place of accident involving a fatal or serious accident is disturbed or altered due to any reason whatsoever, a sketch of the site illustrating the accident and all relevant details shall be prepared (in duplicate) and such sketch shall be duly signed by the manager or assistant manager, safety officer, surveyor and the workmen's inspector, by any work person present at the place of accident. Such sketch shall also be supported by the photographs of the place of the accident:

Provided that, if the place is disturbed or altered to prevent further accident or rescue persons from danger before the sketch could be prepared, the same shall be prepared immediately thereafter giving all relevant details as existed before the place was disturbed or altered.

(3) One of the authenticated sketches shall be delivered or sent to the concerned inspector of mines.

199A. *Emergency Plan.*—(1) The manager of every mine having workings below ground shall prepare a general plan of action for use in time of emergency. The plan shall outline the duties and responsibilities

of each mine official and key men including the telephone operators, so that each person shall know what is expected of him in case fire, explosion or other emergency occurs. All officials and key men shall be thoroughly instructed in their duties so as to avoid contradictory orders and confusion at the time when prompt and efficient action is needed. The emergency plan shall also provide for mock rehearsals at regular intervals.

(2) The manager shall submit a copy of the aforesaid emergency plan prepared by him to the regional inspector, within 60 days of the coming into force of the Coal Mines (Amendment) Regulations, 1985, or in the case of a mine which is opened or reopened thereafter, within thirty days of such opening or re-opening. The Regional Inspector may, by an order in writing approved of such action plan, either in the form submitted to him or with such additions and alterations as he may think fit and the action plan so approved shall be enforced at the mine.

(3) On receiving information of any emergency, the Manager and in his absence the principal official present at the surface, shall immediately put the emergency action plan in operation."

13. Regulation 201 of the said regulations shall be omitted.

14. In regulation 204 of the said regulations,—

(i) In sub-regulation (1), for the words "Mining Board constituted under Section 12 of the Act or if no Mining Board has been constituted for the area in which the mine or part thereof is situated, to the Central Government", the words "Committee constituted under section 12 of the Act" shall be substituted;

(ii) (a) in sub-regulation (2), for the words "the Mining Board or of the Central Government, as the case may be", the words "the Committee" shall be substituted;

(b) in the proviso to sub-regulation (2), for the words "the Mining Board or the Central Government, as the case may be", the words "the Committee" shall be substituted.

Published in the *Gazette of India, Extraordinary*, Part II, Section 3(i), No. 355, dated July 30, 1985.

MINISTRY OF LABOUR

G.S.R. 615 (E).—Whereas the draft of certain regulations further to amend the Metalliferous Mines Regulations, 1961 was published as required by sub-section (1) of the section 59 of the Mines Act, 1952 (35 of 1952), in the *Gazette of India, Extraordinary*, Part II, Section 3, Sub-section (i), dated the 6th September, 1984, with the notification of Government of India in the then Ministry of Labour and Rehabilitation (Department of Labour), No. G.S.R. 651(E), dated the 6th September, 1984, inviting objections and suggestions from all persons likely to be affected thereby, till the expiry of a period of three months from the date of publication of the said notification, in the Official Gazette;

And whereas the said Gazette was made available to the public on the 6th September, 1984;

And whereas the objections and suggestions received from the public on the said draft have been considered by the Central Government;

Now, therefore, in exercise of powers conferred by section 57 read with sub-section (4) of section 59 of the said Act, the Central Govern-

ment, hereby makes the following regulations, further to amend the Metalliferous Mines Regulations, 1961, namely :—

1. (1) These regulations may be called the **Metalliferous Mines (Amendment) Regulation, 1985.**

(1) They shall come into force on the date of their publication in the Official Gazette

2. In sub-regulation (9) of regulation 2 of the Metalliferous Mines Regulations, 1961 (hereinafter referred to as the said regulation), for the words and figure “age of 21 years”, the words and figure “age of 20 years” shall be substituted.

3. In sub-regulation (1) of the regulation 3 of the said regulations, after the words “First Schedule” the following shall be inserted, namely :—

“and a copy thereof shall be submitted to the regional inspector. The form shall be accompanied by a plan showing the boundaries of the mine and the shafts or openings of the mine, trijunction or revenue Pillars and other prominent and permanent surface features :

Provided that, in respect of a mine which has already been opened such a plan shall be submitted within sixty day of coming into force of the Metalliferous Mines (Amendment) Regulation, 1985 :

Provided further that if the boundry of a mine is changed as per sub-regulation (1) of regulation 111 a plan showing the boundry shall be submitted within seven days of the said change.”

4. After regulation 8 of the said regulations, the following regulation shall be inserted, namely :—

“8A. *Appointment of agent.*—(1) The owner of a mine shall submit it in writing to the Chief Inspector and the Regional Inspector, a statement showing name and designation of every person authorised to act as an agent on behalf of the owner of a mine in respect of management, control, supervision or direction of the mine.

(2) The statement shall also show the responsibilities of every such person and the matters in respect of which he is authorised to act on behalf of the owner of a mine.

(3) The statement aforesaid shall be submitted within one month from the date of coming into force of the Metalliferous Mines (Amendment) Regulations, 1985, in the case of mines already opened or reopened as the case may be, and in other cases within one month from the date of opening or reopening of the mine

(4) Any change, addition or alteration in the names or other particulars of the aforesaid statement shall be reported in writing to the Chief Inspector and the Regional Inspector within seven days from the date of such change, addition or alteration.”

5. In sub-regulation (2) of regulation 9 of the said regulations, for the words “under sub-regulation (1), the owner, agent or manager shall within 24 hours of his being informed of the death,” the words “under sub-regulation (1) or if an injury other than the serious injury becomes serious, the owner, agent or manager shall within 24 hours of his being informed of the same,” shall be substituted.

6. In the first proviso to sub-regulation (1) of regulation 13 of the said regulations, the words “holding a degree or diploma in mining approved by the Board in this behalf” shall be omitted.

7. In clause (a) of sub-regulation (1) of regulation 15 of the said regulations, for the words and figures "21 years of age", the words and figure, "20 years of age" shall be substituted

8. In sub-regulation (2) of regulation 16 of the said regulations after the proviso, the following proviso shall be inserted, namely :—

"Provided further that the Board may approve a part of the period of the experience gained while engaged in inspection, rescue, research, planning or any other work, connected with mining operations so however that, the aforesaid period shall not, inclusive of the period of experience in coal mines approved under regulation 19, exceed one year in case of a second class coal and one and half years in case of First Class Manager's Certificate."

9. In sub-regulation (2) of the regulation 22, for the proviso, the following proviso shall be substituted, namely :—

"Provided that the Board may subject to such conditions as it may specify, exempt any person from appearing at the examination or part thereof, for the grant of an Exchange Certificate."

10. For regulation 29 of the said regulations, the following regulation shall be substituted, namely :—

"29 Suspension of Certificate of Foreman, Mate, Engine driver, Blaster or Gas-testing.—(1) If the regional inspector is of the opinion that the holder of a certificate of Foreman, Mate, Engine-driver, Blaster or Gas-testing is incompetent or is guilty of negligence or misconduct in the performance of his duties, he may hold an enquiry to determine whether or not such a person (hereinafter referred to as the delinquent) is fit to continue to hold such certificate.

(2) During such enquiry he shall record,—

- (a) any evidence that the delinquent may like to give ;
- (b) the evidence of any witness that the delinquent may like to produce ;
- (c) the evidence of the Manager of the mine ; and
- (d) any other evidence that may be considered necessary or relevant by the regional inspector.

Unless the delinquent fails to be present inspite of sufficient notice, the evidence aforesaid shall be recorded in the presence of the delinquent and he shall be given a reasonable opportunity to cross-examine the witnesses (other than those produced by him). The regional inspector also may cross-examine the delinquent and the witnesses produced by him.

(3) If as a result of the enquiry the regional inspector is of the opinion that the delinquent is not fit to hold the certificate, he shall within fifteen days from the date of the conclusion of his enquiry, submit a report to the Chairman of the Board together with his finding, notes of evidence recorded during the enquiry and other relevant records. After considering such report, evidence and records, the Chairman may without any further reference to the Board suspend the certificate of the delinquent for a period not exceeding three months.

(4) Where the Chairman is of the opinion that the suspension of the certificate for a period exceeding three months or its cancellation is called for, he shall recommend to the Board accordingly together with the findings

of the Regional Inspector, the notes of evidence and other relevant records. A copy of such communication addressed to the Board together with the copies of the notes of evidence and the findings of the regional inspector shall also be sent to the delinquent who may submit his written representation within thirty days from the date of receipt of such copies.

(5) The Board may, after considering the evidence and other record and the written representation, if any, submitted by the delinquent, either increase the period of suspension or cancel the certificate as it deems fit.

(6) Where a certificate is suspended or cancelled under this regulation the Chairman of the Board may call for such certificate and make suitable endorsement thereon."

11. For sub-regulation (2) of regulation 30 of the said regulations, the following sub-regulation shall be substituted, namely :—

"(2) (a) A medical examination undergone in accordance with rule 29B of the Mines Rules, 1955 shall also be deemed to be an examination for the purpose of sub-regulation (1).

(b) The application for endorsement on a certificate by the regional inspector shall be accompanied by the certificate of fitness granted in terms of rule 29B of the Mines Rules, 1955 and a fee of five rupees."

12. For regulation 33 of the said regulations, the following regulation shall be substituted, namely :—

"33. *Definition*.—For the purpose of these regulations,—

(a) all excavations within the mine boundary and all premises, plants machinery and works as specified in clause (j) of sub-section (i) of section 2 of the Act shall collectively constitute the mine ;

(b) the expression, "average employment" of any mine, means the average per day during the preceding quarter of the total employment in all excavations and specified ancillary facilities within the specified mine boundaries (obtained by dividing the number of man days worked by the number of working days excluding the rest days and other non-working days).

13. In regulation 111 of the said regulations :—

(i) the existing sub-regulations (i) and (2) shall be renumbered as sub-regulations (2) and (3) respectively and before sub-regulation (2) so renumbered, the following sub-regulation shall be inserted, namely :—

"(1) The owner, agent or manager of every mine shall fix the boundaries of the mines. Notwithstanding anything contained in sub-regulation (2) ; the boundary shall not be changed except with the permission of the chief inspector in writing and subject to such conditions as he may specify therein".

(ii) after sub-regulation (2) so re-numbered, the following proviso shall be inserted, namely :—

"Provided that, where the workings of any seam, for any reason, are extended or get extended within any shorter distance than what is laid down hereinabove, the Chief Inspector may, by an order in writing, require the owner to construct such protective works within such time as he may specify in the order".

14. For regulation 190 of the said regulations, the following regulations shall be substituted, namely :—

"190. *Place of accident.*—(1) Whenever an accident occurs in or about a mine causing loss of life or serious bodily injury to any person, the place of accident shall not be disturbed or altered before the arrival or without the consent of the Chief Inspector or the Inspector to whom notice of the accident is required to be given under sub-section (1) of section 23 of the Act unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased, or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine:

Provided that the work may be resumed at the place of accident in case the chief inspector or the inspector fail to inspect the place of accident within seventy-two hours.

(2) Before the place of accident involving a fatal or serious accident is disturbed or altered due to any reason whatsoever, a sketch of the site illustrating the accident and all relevant details shall be prepared (in duplicate) and such sketch shall be duly signed by the manager or assistant manager, safety officer, surveyor and the workmen's inspector or, where there is no workmen's inspector by a workperson nominated by the workers in this behalf:

Provided that, if the place is disturbed or altered to prevent further accident or rescue persons from danger before the sketch could be prepared, the same shall be prepared immediately thereafter giving all relevant details as existed before the place was disturbed or altered.

(3) One of the authenticated sketches shall be delivered or sent to the concerned inspector of Mines.

190A. *Emergency plan.*—(1) The manager of every mine having workings below ground shall prepare a general plan of action for use in time of emergency. The plan shall outline the duties and responsibilities of each mine official and men including the telephone operators, so that each person shall know his duties in case fire, explosion or other emergency occurs. All officials and key men shall be thoroughly instructed in their duties so as to avoid contradictory orders and confusion at the time when prompt and efficient action is needed. The emergency plan shall also provide for mock rehearsals at regular intervals.

(2) The manager shall submit a copy of the aforesaid emergency plan prepared by him to the regional inspector within 60 days of the coming into force of the Metalliferous Mines (Amendment) Regulations, 1985, or in the case of a mine which is opened or re-opened thereafter, within 30 days of such opening or re-opening. The regional inspector may, by an order in writing approve of such action plan, either in the Form submitted to him or with such additions and alterations as he may think fit, and the action plan so approved shall be enforced at the mine.

(3) On receiving information of any emergency the manager and in his absence the principal official present at the surface, shall immediately put emergency action plan in operation".

15. Regulation 192 of the said regulations shall be omitted.

16. In regulation 195 of the said regulations,—

(i) in sub-regulation (1), for the words and figure "Mining Board

constituted under section 12 of the Act or, if no Mining Board has been constituted for the area in which the mine or part thereof is situated, to the Central Government", the words and figure "Committee constituted under section 12 of the Act" shall be substituted ;

(ii) (a) In sub-regulation (2) for the words "the Mining Board or of the Central Government, as the case may be", the words "the Committee" shall be substituted ;

(b) in the proviso to sub-regulation (2) for the words "the Mining Board or the Central Government, as the case may be", the words "the Committee", shall be substituted.

Published in the *Gazette of India, (Extraordinary)*, Part II, Section 3(i), No. 228, dated June 1, 1985.

MINISTRY OF TOURISM AND CIVIL AVIATION

G S.R. 471(E).—(*New Delhi, the 1st June, 1985*).—Whereas certain draft rules further to amend the Aircraft Rules, 1937 were published with the notification of the Government of India in the Ministry of Tourism and Civil Aviation No. GSR 630, dated the 14th May, 1984 in the Gazette of India, Part II, Section 3, Sub-section (i) dated 23rd June, 1985 inviting objections and suggestions from all persons likely to be affected thereby :—

And whereas copies of the said Gazette were made available to the public on the 23rd June, 1984 ;

And whereas the objections or suggestions received from the public on the said draft have been taken into consideration ;

Now, therefore in exercise of the powers conferred by section 5 of the Aircraft Act, 1934 (22 of 1934), the Central Government hereby makes the following rules further to amend the Aircraft Rules 1937, namely :—

1. (a) These rules may be called the Aircraft (Third Amendment) Rules, 1985.

(b) They shall come into force on the date of their publication in the Official Gazette ;

2. In the Aircraft Rules, 1937, in Schedule II,

(1) for Section P the following Section shall be substituted, namely:—
"SECTION 'P'

STUDENT FLIGHT ENGINEER'S LICENCE

1. *Requirements for the issue of licence*.—An applicant for a Student Flight Engineer's licence shall satisfy the following requirement namely :—

(a) *Age*—He shall not be less than 21 years of age on the date of application.

(b) *Medical fitness*.—He shall produce on a prescribed proforma a certificate of physical fitness from an approved Medical Board after undergoing a medical examination during which he shall have established his medical fitness on the basis of compliance with the requirements as notified by the Director General under rule 39-B

(c) *Qualification*.—Educational. He must have passed Higher Secondary examination with physics and mathematics or an examination equivalent thereto as recognised by the Director General of Civil Aviation.

Technical.—He shall have completed a Flight Engineers Ground Course of Instructions in the basic technical and aeronautical knowledge

required of a flight engineer as approved by the Director General of Civil Aviation.

(d) *Knowledge*.—Subject to the successful completion of the course mentioned in clause (c) above, he shall pass a written examination in the following subjects :—

(i) Regulations and procedures including rules, regulations and procedures in so far as duties of flight engineers are concerned

(ii) Fundamentals of aerodynamics and theory of flight and navigation.

(iii) General principles of constructions maintenances and functioning of airframes, power plants including their accessories, instruments, installed equipment and related systems.

(iv) Selected elements of flight planning including centre of gravity computation, fuel consumption and endurance, power plant output and centre of power output, engine power curves and mathematical computation involved.

(v) Aircraft performance characteristics and limitations.

(vi) Flight documentation relating to the duties of flight engineer.

(vii) Procedures in the event of power plant or system malfunction or emergencies particularly in the event of fire.

(viii) Knowledge of varying meteorological conditions and their effect on aircraft, power plant operations.

(ix) Detailed knowledge of flight/operation manuals including the knowledge of the functioning of the aircraft systems and other components installed in the systems.

(x) Procedure for airworthiness checks, defects reporting, preflight inspections, types of fuel precautions during refuelling and use of external power.

2. *Validity*—The period of validity shall commence from the date of issue or renewal of the licence. The licence shall be valid for a period not exceeding 12 months from the date of medical examination subject to the total validity of the licence not exceeding 24 months from the date of issue.

3. *Renewal*.—Licence may be renewed for a period not exceeding 12 months from the date of a successful medical examination.

4. *Aircraft rating*.—Licence shall indicate the type of aircraft on which the holder is entitled to fly in the capacity of a student flight engineer.

5. *Extension of aircraft rating*.—For extension of aircraft rating to include an additional type of aircraft, an applicant shall have completed a flight engineer's ground course of instructions as per para 7.2 approved by Director General of Civil Aviation and passed a written examination, subsequent to successful completion of the approved course, the aircraft engine and systems pertaining to the type of aircraft for which extension of aircraft rating is desired.

6. *Privileges*.—Subject to the validity of endorsements and rating in the licence the privileges of the holder of a student flight engineer's licence shall be to act as a student flight engineer on any type of aircraft entered in aircraft rating of his licence and which has separate flight engineer's station provided that :—

(a) he shall so act at times under personal supervision of a flight

engineer and solely for the purpose of gaining flight experience required for obtaining a flight engineer's licence ;

(b) he shall not act as a student flight engineer of a transport aircraft carrying passengers unless he shall satisfactorily completed a course of training for a minimum of 10 hours on local training flights or non-passenger carrying flight during which he shall have carried out not less than 10 take-offs and 10 landings and he has been certified fit by an examiner to operate as student flight engineer on the type of transport aircraft carrying passengers. Out of the 10 hours stipulated as training experience, not more than 8 hours shall be on a approved synthetic device Landings carried out on synthetic device shall not count towards the 10 landings referred to above.

7. Flight Engineer's Ground Course of instructions as referred to in para 1 (c)(ii) shall consist of (i) Basic course (ii) type course ; as per the details given in para 7.1 below.

7.1 *Basic Course*.—The duration of the course shall be decided by the Director General of Civil Aviation keeping in view the aducational and experience background of trainees and the course shall consist of the following subjects :—

(a) Aircraft rules and civil airworthiness requirements in so far as duties of flight engineer are concerned.

(b) Theory of flight.

(c) Properties of air.

(d) Basic airframe and associated systems.

(e) *Basic engine*—gas turbine engine or piston engine including propeller system as applicable.

(f) Basic electrical.

(g) Basic instruments.

(h) Ground handling and servicing procedurs.

(i) Weight and balance.

(j) Emergency equipments.

(k) Fuel systems.

(l) Ice and rain protection.

7.2 *Type Course*.—The duration of the course shall be as such as approved by the Director General of Civil Aviation keeping in view of complexity of aircraft and shall cover the following subjects :

(a) Aircraft systems and accessories including malfunction analysis.

(b) *Aircraft engines*.—gas turbine engine or piston engine including propeller system as applicable including malfunction analysis.

(c) Fuel management.

(d) Ground handling and servicing procedures.

(e) Weight and balance.

(f) Use of cockpit list/minimum equipment list.

(g) External and internal pre-flight check.

(h) Normal operation procedures.

(i) Alternate or emergency operating procedures.

(j) Aircraft performance

(k) Documents relating to aircraft airworthiness.

- (l) Emergency equipment.
- (m) Fire protection system.
- (n) Aircraft systems, power systems, instrument system, electrical system operating limitation.
- (o) Ice and rain protection.
- (p) Landing gear and braking system.
- (q) A General knowledge of the normal, abnormal and emergency use of radio, communication, navigation and radar systems.

8. *Exemptions.*—Where an applicant produces acceptable evidence that he has attended a ground course of instructions or has passed Aircraft Maintenance Engineer's Licence examinations of at least equal standards in any subject specified earlier in this section, he may be granted exemption from the requirements of paras 7.1 and 7.2 as applicable by the Director General of Civil Aviation."

(ii) for Section 'Q' the following Section shall be substituted, namely :—

"SECTION 'Q' FLIGHT ENGINEER'S LICENCE

1. *Requirement for the issue extension of licence.*—An applicant for issue extension of a flight engineer's licence shall satisfy the following requirements:

(a) He must have a current Student Flight Engineer's Licence on the type of aircraft which is desired to be included in the aircraft rating of his flight engineer's licence.

(b) *Medical fitness.*—He shall produce, on a prescribed form, a certificate of physical fitness from an approved Medical Board after undergoing a medical examination during which he shall have established his medical fitness on the basis of compliance with the requirements as notified by the Director General of Civil Aviation under rule 39-B.

(c) *Experience.*—An applicant shall produce evidence of having completed within a period of 12 months immediately preceding the date of his application, for licence 100 hours of flying experience on the type of aircraft desired to be included in the licence. Out of his flying experience not more than 50 hours shall be obtained on an approved synthetic flight trainer.

(d) *Skill.*—He shall have demonstrated his competency as a flight engineer to the satisfaction of a Director General of Civil Aviation approved examiner by undergoing the following tests on the type of aircraft to which the application relate within a period not exceeding 6 months immediately preceding the date of such application.

(i) *Normal operations.*—A check on representative air route covering —

- per-flight inspection;
- refuelling procedure;
- inspection of appropriate maintenance documents;
- all normal procedure applicable to his duties as specified in the relevant parts of Operation Manual, crew co-operation; and
- defect reporting.

(ii) *Abnormal and alternate (stand by) operations.*—A check on his ability to recognize abnormal functioning of systems and use of alternate

(stand by) procedures.

(iii) *Emergency procedures*.—Demonstration of practical knowledge of emergency procedures and the ability to take appropriate action in the event of engine failure occurring particularly during take-offs and landings

2. *Validity*.—The period of validity shall commence from the date of issue of renewal of a licence. The licence shall be valid for a period of not exceeding 12 months from the date of medical examination except when an applicant has been medically examined during thirty days immediately preceding the date of expiry of the licence full period of validity may be allowed from the date of expiry.

3. *Renewal*—(i) The licence may be renewed on receipt of satisfactorily evidence of an applicant,—

(a) having undergone a successful medical examination in accordance with clause (b) of paragraph 1;

(b) having satisfactorily completed not less than 20 hours of flight time as a flight engineer within a period of 6 months immediately preceding the date of application for renewal or in lieu thereof having flight tests as laid down in clause (d) of paragraph 1 within the same period.

4. *Aircraft rating*.—The licence shall indicate the type of aircraft the holder is entitled to fly in the capacity of a flight engineer.

5. *Extension of aircraft rating*.—For extension of aircraft rating to include an additional type of aircraft, an applicant shall be required to produce evidence of.—

(a) having a current student flight engineer's licence on the type of aircraft which is desired to be included in the aircraft rating of his licence.

(b) having completed within a period of 12 months immediately preceding the date of the application for extension of aircraft rating, 50 hours of flying experience on the type of aircraft desired to be included in his licence. Out of this flying experience not more than 25 hours shall have been obtained on an approved synthetical flight trainer.

(c) having successfully completed the flight test as laid down in clause (d) of paragraph 1 in respect of the type the aircraft for which the aircraft rating is desired within a period of 6 months immediately preceding the date of application for extension of aircraft rating.

6. *Privileges*.—Subject the endorsements and rating in the licence the privileges of the holder of a flight engineer's licence shall be to act as flight engineer in any aircraft of a type specified in the aircraft rating of this licence provided during the preceding 12 months he has demonstrated, his competency as in para (d) (ii) and (iii) above to an approved examiner to undertake duties of flight engineer in the type of aircraft or in an approved flight simulator".

Published in the *Gazette of India*, Part II, Section 3(i), No. 31, dated 3rd August, 1985.

MINISTRY OF HOME AFFAIRS

GSR 713.—(New Delhi, the 26th July, 1985).—In exercise of the powers conferred by clause (d), (e) and (f) of sub-section (2) of section 35 of the *Administrative Tribunals Act, 1985* (13 of 1985), the Central Government hereby makes the following rules, namely :—

1. *Short title and commencement*—(1) These rules may be called the **Central Administrative Tribunal (Procedure) Rules, 1985**.

(2) They shall come into force on the 2nd September, 1985

2. *Definitions*.—In these rules, unless the context otherwise requires :—

(a) "Act" means the Administrative Tribunals Act 1985 (13 of 1985) ;

(b) "agent" means a person duly authorised by a party to present application or reply on its behalf before the Tribunal ;

(c) "applicant" means a person making an application to the Tribunal under Section 19 ;

(d) "Application" means an application made to the Tribunal under section 19 ;

(e) "legal practitioner" shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961) ;

(f) "Presiding Officer" means the presiding officer of a Bench ;

(g) "Registrar" means the Registrar of the Tribunal and includes any officer to whom the powers and the functions of the Registrar may be delegated under clause (2) of rule 26 ;

(h) "Registry" means the Registry of the Tribunal ;

(i) "Section" means a section of the Act ;

(j) "transferred application" means the suit or other proceeding which has been transferred to the Tribunal under sub-section (1) of section 29 ;

(k) "Tribunal" means the Central Administrative Tribunal established under section 4.

3. *Language of the Tribunal*.—(1) The language of the Tribunal shall be English :

Provided that, the parties to a proceeding before the Tribunal may file documents drawn up in Hindi if they so desire :

Provided further that a Bench may in its discretion, permit the use of Hindi in the proceeding ; However, the final order shall be in English.

(2) Notwithstanding anything contained in rule (1), the Tribunal may pass such order in Hindi, as and when it deems fit :

Provided that any such order shall be accompanied by a translation in English of the same, duly attested by the Bench concerned.

4. *Procedure for filing applications*.—(1) An application to the Tribunal shall be presented in Form I annexed to these rules by the applicant in person or by an agent or by a duly authorised legal practitioner, to the Registrar or sent by registered post addressed to the Registrar.

(2) The application under sub-rule (1) shall be presented in six complete sets in a paper book form alongwith an empty file size envelope bearing full address of the respondent and where the number of respondents is more than one, sufficient number of extra paper books together with empty file size envelopes bearing full address of each respondent shall be furnished by the applicant.

5. *Presentation and scrutiny of applications*—(1) The Registrar, or, as the case may be the officer authorised by him under rule 4, shall endorse

on every application the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement.

(2) If, on scrutiny, the application is found to be in order, it shall be duly registered and given a serial number.

(3) If the application, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the party to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the applicant such time to rectify the defect as he may deem fit.

(4) If the concerned applicant fails to rectify the defect within the time allowed in sub-rule (3), the Registrar may by order and for reasons to be recorded in writing decline to register the application.

(5) An appeal against the order of the Registrar under sub-rule (4) shall be made within 15 days of the making of such order to the Presiding Officer concerned in chamber whose decision thereon shall be final.

6. *Place of filing applications.*—The application shall be filed by the applicant either with the Registrar of the additional Bench within whose jurisdiction the applicant is posted for the time being or with the Registrar of the principal Bench.

7. *Application fee.*—Every application filed with the Registrar shall be accompanied by a fee of rupees fifty and the fee may be remitted either in the form of a crossed Demand Draft drawn on a Nationalised Bank in favour of the Registrar and payable at the station where Registrar's office is situated or remitted through a crossed Indian Postal Order, drawn in favour of the Registrar and payable in Central Post Office of the station where the Tribunal is located.

8. *Contents of application.*—(1) Every application filed under rule 4 shall set forth, concisely under distinct heads, the grounds for such application and such grounds shall be numbered consecutively and shall be typed in double space on one side of the paper.

(2) It shall not be necessary to present separate application to seek interim order or direction if in the original application the same is prayed for.

9. *What to accompany the application.*—(1) Every application shall be accompanied by a paper book containing:

(i) the certified copy of an order against which the application has been filed;

(ii) all the documents relied upon by the applicant and mentioned in the application;

(iii) details of the crossed Demand Draft or crossed Indian Postal Order representing the application fee;

(iv) index of documents.

(2) The documents referred to in sub-rule (1) shall be neatly typed in double space on one side of the paper, duly attested by a Gazetted Officer and numbered accordingly.

(3) Where the parties to the suit or proceedings are being represented by an agent, documents authorising such agent shall also be appended to the application:

Provided that where the agent is a legal practitioner, such document of authorisation shall be in the form of a duly executed Vakalatnama.

10. *Plural remedies*—An applicant shall not seek relief or reliefs based on more than a single cause of action in one single application unless the reliefs prayed for are consequential to one another.

11. *Endorsing copy of application to the respondent*.—A copy of the application and paper-book shall be served on each of respondent as soon as they are filed, by the Registrar by registered post.

12. *Filing of reply and other documents by the respondent*.—(1) The respondent may file six complete sets containing the reply to the application alongwith documents in a paper-book form with the registry within one month of the service of the notice of the filing of the application on him.

(2) The respondent shall also endorse one copy of the reply alongwith documents as mentioned in sub-rule (1) to the applicant.

(3) The Tribunal may, in its discretion, on application by the respondent allow the filing of reply referred to in sub-rule (1), after the expiry of the period referred to therein.

13. *Date and place of hearing to be notified*.—The Tribunal shall notify to the parties the date and the place of hearing of the application.

14. *Hearing of applications*.—(1) On the date fixed, or any other date to which the hearing could be adjourned, the Tribunal shall decide the application on a perusal of documents and written representations and after hearing of oral arguments, if any, allowed by the Tribunal in the circumstances of the case.

(2) The Tribunal shall allow the applicant and the respondent to give oral arguments as referred to in sub-rule (1) for such time as it may deem fit.

(3) After holding an enquiry in terms of sub-section (3) of section 22 or on the conclusion of oral arguments as required under sub-rules (1) and (2) the Tribunal shall decide the application.

15. *Action on application for applicant's default*.—(1) Where on the date fixed for hearing on the application or on any other date for which such hearing may be adjourned, the applicant does not appear when the application is called on for hearing, the Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit.

(2) Where an application has been dismissed for default and the applicant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the application was called on for hearing, the Tribunal shall make an order setting aside the order dismissing the application and restore the same.

16. *Hearing on application ex-parte*.—Where on the date fixed for hearing on the application or on any other date to which hearing is adjourned, the applicant appears and the respondent does not appear when the application is called on for hearing, the Tribunal may, in its discretion, adjourn or hear and decide the application ex-parte.

17. *Adjournment of application*.—The Tribunal may on such terms as it deems fit and at any stage of the proceedings adjourn hearing of the application.

18. *Order to be signed and dated*.—Every order of the Tribunal shall be

in writing and shall be signed and dated by the Members constituting the Bench concerned.

19. *Publication of orders.*—Such of the orders of the Tribunal as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Tribunal may lay down.

20. *Communication of orders to parties.*—Every order passed on an application shall be communicated to the applicant and to the respondent either in person or by registered post free of cost.

21. *No fee for inspection of records.*—No fee shall be charged for inspecting the records of pending application by a party thereto.

22. *Orders and directions in certain cases.*—The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect or in relation to its orders or to prevent abuse of its process or to secure of ends of justice.

23. *Registration of legal practitioners clerks.*—(1) A clerk employed by a legal practitioner and permitted, as such to have access to the records of and obtain copies of the orders of the Tribunal in which the legal practitioner practices is known as a "registered clerk".

(2) A legal practitioner desirous of registering his clerk shall put in an application to the Registrar in Form 2 appended to these rules.

(3) A legal practitioner shall have at a time not more than two registered clerks unless the Registrar by general or special order otherwise permits.

(4) A register of all the registered clerks shall be maintained in the office of the Registrar and after registration of the clerk, the Registrar shall direct the issue of an identity card to each registered clerk which shall be non-transferable and shall be produced by the holder upon request by any officer or other employee of the Tribunal authorised in this behalf.

(5) The identity card mentioned in sub-rule (4) shall be issued under the signature of the Deputy Registrar of the Tribunal.

(6) Whenever a legal practitioner ceases to employ a registered clerk, he shall notify the fact at once to the Registrar by means of a letter enclosing therewith the identity card issued to his clerk by the registry and on receipt of such letter the name of the registered clerk shall be struck off from the register.

24. *Working hours of the Tribunal.*—Except on Saturdays, Sundays and other public holidays, the offices of the Tribunal shall, subject to any order made by the Chairman, remain open daily from 10.00 a.m. to 6.00 p.m. but no work, unless of an urgent nature, shall be admitted after 4.30 p.m. on any working day.

25. *Sitting hours of the Tribunal.*—The sitting hours of the Tribunal (including a vacation Bench) shall ordinarily be from 10.30 a.m. to 1.00 p.m. and 2.00 p.m. to 5.00 p.m. subject to any order made by the Chairman.

26. *Powers and functions of the Registrar.*—(1) The Registrar shall have custody of the records of the Tribunal and shall exercise such other functions as are assigned to him under these rules or by the Chairman by separate order.

(2) The Registrar may, with the approval of the Chairman, delegate to Joint Registrar or Deputy Registrar any function required by these rules to be exercised by the Registrar.

(3) In the absence of Registrar, the Joint Registrar or the Deputy Registrar, as the case may be, may exercise all the functions of the Registrar.

(4) The official seal shall be kept in the custody of the Registrar.

(5) Subject to any general or special direction by the Chairman, the seal of the Tribunal shall not be affixed to any order, summons or other process save under the authority in writing from the Registrar or the Deputy Registrar.

(6) The seal of the Tribunal shall not be affixed to any certified copy issued by the Tribunal save under the authority in writing of the Registrar or the Deputy Registrar,

27. *Additional powers and duties of Registrar.*—In addition to the powers conferred elsewhere in these rules, the Registrar shall have the following powers and duties subject to any general or special order of the Chairman namely :—

(i) to receive all applications and other documents including transferred applications ;

(ii) to decide all questions arising out of the scrutiny of the applications before they are registered ;

(iii) to require any application presented to the Tribunal to be amended in accordance with the rules ;

(iv) subject to the directions of the respective Benches to fix date of hearing of the applications or other proceedings and issue notices thereof ;

(v) to direct any formal amendment of records ;

(vi) to order grant of copies of documents to parties to proceedings ;

(vii) to grant leave to inspect the records of the Tribunal ;

(viii) dispose of all matters relating to the service of notice or other processes, applications for the issue of fresh notices or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisements in the newspapers ;

(ix) to requisition records from the custody of any court or other authority ;

(x) to receive application for the substitution of legal representatives of the deceased parties during the pendency of the application ;

(xi) applications for substitution, except where the substitution would involve setting aside or abatement ;

(xii) applications by parties for return of documents.

28. *Seal and emblem.*—The official seal and emblem of Tribunal shall be such as the Central Government may specify.

29. *Dress for the Members and staff of the Tribunal.*—The dress for the Members of the Tribunal (including Chairman and Vice Chairman) and members of the staff of the Tribunal shall be such as the Chairman may specify.

30. *Dress for the parties.*—Every legal practitioner or, as the case may be presenting officer shall appear before the Tribunal in his professional dress, if any, and if there is no such dress :—

(i) if a male, in a close collared black coat or in an open collared black coat with white shirt and trousers and black tie;

(ii) if a female, in a black coat over a white saree or over any other white dress.

FORM 1

(See rule 4)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985

For use in Tribunal office.

DATE OF FILING _____

OR

DATE OF RECEIPT BY POST
REGISTRATION NO. _____

SIGNATURE
REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

***PRINCIPAL BENCH, NEW DELHI**

***ADDITIONAL BENCH—**_____

BETWEEN

A

B

APPLICANT

AND

C

D

RESPONDENT

*Delete which is not applicable.

DETAILS OF APPLICATION

1. Particulars of the applicant

- (i) Name of the applicant
- (ii) Name of Father/Husband
- (iii) Designation and office in which employed
- (iv) Office address
- (v) Address for service of all notices,

2. Particulars of the respondent

- (i) Name and/or designation of the respondent
- (ii) Office address of the respondent.
- (iii) Address for service of all notices.

3. Particular of the order against which application is made

The application is against the following order :

- (i) Order No.
- (ii) Date
- (iii) Passed by
- (iv) Subject in brief.

4. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case

The facts of the case are given below :—

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise).

7. Relief(s) sought

In view of the facts mentioned in para. 6 above, the applicant prays for the following relief(s) :—

(Specify below the relief(s) sought explaining the ground for the relief(s) and the legal provisions (if any) relief upon):

8. Interim order, if prayed for

Pending final decision on the application, the applicant seeks issue of the following interim order :—

(Give here the nature of the interim order prayed for with reasons).

9. Details of the remedies exhausted.

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

(Give here chronologically the details of representations made and the outcome of such representations).

10. Matter not pending with any other court, etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal Order in respect of the Application Fee

1. Name of the Bank on which drawn.

2. Demand Draft No.

Or

1. Number of Indian Postal Order(s)

2. Name of the issuing Post Office

3. Date of issue of Postal Order(s)

4. Post Office at which payable.

12. Details of Index

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures.

In verification ;

I ——— (name of the applicant), S/o, D/o, W/o ——— age ——— working as ——— resident of ——— do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed on material facts.

Place : .

Signature of the applicant.

Date : .

To
The Registrar,

FORM 2

(See rule 26)

APPLICATION FOR THE REGISTRATION OF A CLERK

1. Name of legal practitioner on whose behalf the clerk is to be registered.
2. Particulars of the clerk to be registered
 - (i) Full Name .
 (in capitals)
 - (ii) Father's name.
 - (iii) Age and date of birth
 - (iv) Place of birth
 - (v) Nationality
 - (vi) Educational qualifications
 - (vii) Particulars of previous employment, if any.

I, _____ (clerk above named) do hereby affirm that the particulars relating to me given above are true,

Signature of Clerk.

3. Whether the legal practitioner has a clerk already registered in his employ and whether the clerk sought to be registered is in lieu of or in addition to the clerk already registered.
4. Whether the clerk sought to be registered is already registered as a clerk of any other legal practitioner and if so, the name of such practitioner.

I, _____ (legal practitioner) certify that the particulars given above are true to the best of my information and belief and that I am not aware of any facts which would render undesirable the registration of the said.....(name) as a clerk.

Date :

Signature of legal practitioner.

To
The Registrar of the Tribunal.

Published in the *Gazette of India*, Part II, Section 3 (i), No. 31,
 dated August, 3, 1985.

MINISTRY OF IRRIGATION AND POWER

G.S.R. 732 —(New Delhi, the 18th June, 1985.)—Whereas certain draft rules further to amend the Indian Electricity Rules, 1956, were published as required under sub-section (1) of section 38 of the Indian Electricity Act, 1910 (9 of 1910), with the notification of the Government of India in the Ministry of Energy (Central Electricity Board) G.S.R. No. 149, dated 19th

January, 1982 on 13th February 1982 in the Gazette of India, Part II, Section 3, sub-section (i) inviting objections or suggestions from all persons likely to be affected thereby, till the expiry of the period of 90 days from the date on which the copies of the Gazette of India in which the notification was published were made available to the public.

And whereas the copies of the said Gazette were made available to the public on the 15th February, 1982 ;

And whereas objections and suggestion received on the draft rules were considered by the Central Electricity Board ;

Now therefore, in exercise of the powers conferred by Section 37 of said Act, the Central Electricity Board hereby makes the following rules further to amend the Indian Electricity Rules, 1956, namely:—

RULES

1. (1) These rules shall be called the Indian Electricity (Amendment) Rules, 1985

(2) They shall come into force on date of their final publication in the Official Gazette.

2. In the Indian Electricity Rules, 1956 ;—

(a) for the existing sub-rule (4) of rule 51 the following shall be substituted namely :—

“(4) if at any time after connecting the supply, the supplier is satisfied that any provision of the sub-rule (1) of this rule or of rules 50 and 64, is not being observed he shall give notice of the same in writing to the consumer and the inspector, specifying how the provisions has not been observed and to rectify such defects in a reasonable time and if the consumer fails to rectify such defects pointed out, he may discontinue the supply after giving the consumer a reasonable opportunity of being heard and recording reasons in writing, unless the inspector directs otherwise. The supply shall be discontinued only on written orders of an officer duly notified by the supplier in this behalf. The supply shall be restored with all possible speed after such defects are rectified by the consumer to the satisfaction of the supplier.”

(b) in rule 59 for sub-rule (4) the following shall be substituted, namely :—

“(4) for the purpose of testing or for any other other purpose connected with the efficient working of the undertaking, the supply of energy may be discontinued by the supplier for such period as may be necessary subject (except in cases of emergency) to not less than 24 hours notice being given by the supplier to all consumers likely to be affected by such discontinuance :

Provided that the supply of energy shall be discontinued during such hours as are likely to interfere the least with the use of energy by consumers and the energy shall not be discontinued if the inspector so directs.”

(c) in rule 90, after sub-rule (3) the following sub-rule shall be inserted :—

“(1A) Metallic bearer wire used for supporting insulated wires of low and medium voltage/overhead/service lines shall be efficiently earthed or insulated.”

Published in the *Gazette of India, (Extra.)* Part II, Section 3(ii),
No. 450, dated 16th September, 1985.

MINISTRY OF EDUCATION

S. O. 678(E)—(*New Delhi, the 29th September, 1985*)—In exercise of the powers conferred by sub-section (2) of section (1) of the *Indira Gandhi National Open University Act, 1985* (50 of 1985), the Central Government hereby appoints the 20th day of September, 1985, as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Extra.)*, Part II, Section 3(i),
No. 412, dated September 16, 1985

MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT

G.S.R. 737 (E) —(*New Delhi, the 16th September, 1985*)—In exercise of the powers conferred by sub-section (3) of section 1 of *Multi-State Co-operative Societies Act, 1984* (51 of 1984), the Central Government hereby appoints the sixteenth day of September, 1985 as the date on which the said Act shall come into force.

Published in the *Gazette of India, (Extra.)*, Part II, Section 3(ii),
No. 455, dated September 24, 1985.

MINISTRY OF COMMERCE

S.O. 687(E)—(*New Delhi, the 24th September, 1985*)—In exercise of the powers conferred by Section 3 of the *Imports and Exports (Control) Act, 1947* (18 of 1947), the Central Government hereby makes the following Order further to amend the *Exports (Control) Order, 1977*, namely :—

1. This Order may be called the *Exports (Control) Eighteenth Amendment Order, 1985*.

2. In the *Exports (Control) Order, 1977*—

(i) in Schedule I, Part 'A', for the existing entry appearing against serial number 22(xix), the following shall be substituted, namely :—

"22(xix)—Calcined Magnesite with silica content below 6.5 per cent and dead burnt magnesite";

(ii) in Schedule I, Part 'B' for the existing entry appearing against serial number 45(viii), the following shall be substituted, namely :—

"45(viii)—Magnesite (raw and calcined);

(iii) in Schedule III, in OGL-3, the existing entry against serial number 28 shall be omitted.

Published in the *Gazette of India, (Extra.)*, Part II, Section 3(ii).
No. 295, dated June 13, 1985.

MINISTRY OF COMMERCE

S. O. 463(E)/No. H(C) O. 1977/AM (308).—(*New Delhi, the 13th June, 1985*)—In exercise of the powers conferred by section 3 of the *Imports and Exports (Control) Act, 1947* (18 of 1947), the Central Government hereby makes the following Order further to amend the *Exports (Control) Order, 1977*, namely :—

1. This Order may be called the *Exports (Control) Thirteenth Amendment Order, 1985*.

2. In the *Exports (Control) Order, 1977*, in Schedule III, in OGL-3, against serial No. 66, in column 4, for the existing entry, the following shall be substituted, namely :—

"Export allowed against contracts registered with Wool and Woollen Export Promotion Council and subject to minimum export price announced by the Textiles Commissioner in respect of mixed knits and minimum export price of Rs. 155 per Kg. f. o. b. in respect of woollen knits. However, this minimum export price condition shall not be applicable to contracts for exports already registered with Handicrafts and Handloom Export Corporation before 12th April, 1985".

Published in the *Gazette of India, (Extra.)*, Part II, Section 3(i), No. 307, dated July 16, 1985.

MINISTRY OF FINANCE

G.S.R. 582(E)—(*New Delhi, the 16th July, 1985*)—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely:—

1. (1) These rules may be called the Central Excise (8th Amendment) Rules, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In clause (ii) (A) of rule 2 of the Central Excise Rules, 1944,—

(a) in sub-clause (q), for the words, brackets and letter "in the area other than those specified in (p) above", the words, brackets and letters "in the areas other than those specified in (p) above and Municipal Ward T" shall be substituted;

(b) in sub-clause (t), for the words "in the districts", the words and letter "in the area comprising Municipal Ward T of the Municipal Corporation of Greater Bombay and in the districts" shall be substituted.

Published in the *Gazette of India, (Extra.)*, Part II Sec. 3(ii), No. 287, dated June 10, 1985.

MINISTRY OF COMMERCE

S.O 453 (E) No. E (C) O/1977/AM (307).—(*New Delhi, the 10th, June, 1985*)—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following Order further to amend the Exports (Control) Order, 1977, namely:—

1. This order may be called the Exports (Control) Twelfth Amendment Order, 1985.

2. In the Exports (Control) Order, 1977, in Schedule III, in OGL-3, against serial number 87, in column 4, for the words "Psyllium Powder" and the entry relating thereto, the following shall be substituted, namely:—

"Psyllium Powder :

The Minimum Export Prices would be higher by 20 cents in all cases where the item of export is in the powder form".

Published in the *Gazette of India (Extras)*, Part II, Section 3(ii), No. 453, dated September 19, 1985.

MINISTRY OF FINANCE

S. O. 685(E)—(*New Delhi, the 19th September, 1985*)—In exercise of the powers conferred by section 46 of the Wealth-tax Act, 1957 (27 of 1957)

the Central Board of Direct Taxes hereby makes the following rules further to amend the Wealth Tax Rules, 1957, namely :—

1. (1) These rules may be called the **Wealth-tax (Amendment) Rules, 1985**

(2) They shall come into on the 1st day of April, 1986.

2. In the Wealth-tax Rules, 1957, in Form A,—

(i) in Part VI, in item 5(i), for the words and figures “Rs. 1.50 lakhs”, the words and figures “Rs. 2.50 lakhs” shall be substituted ;

(ii) in Annexure I, for the words, figures, brackets and letters “Less : Amount exempt under section 5(1)(iva) read with section 5(1A) (to the extent not availed of against the value of agricultural lands in Annexure II)” the words, figures, brackets and letters “Less : Amount exempt under section 5(1)(iva) read with section 5(1A) (to the extent not availed of against the value of any other asset)” shall be substituted ;

(iii) in Annexure II, for the words, figures, brackets and letters “Less : Amount exempt under section 5(1) (iva) read with section 5(1A)”, the words figures, brackets and letters “Less : Amount exempt under section 5(1) (iva) read with section 5(1)(A) (to the extent not availed of against the value of any asset)” shall be substituted ;

(iv) in Annexure IV, for the words, figures, brackets and letters “Less : Amount exempt under section 5(1) (iv)”, the words, figures, bracket and letters “Less : Amount exempt under section 5(1) (iv) read with section 5(1A) (to the extent not availed of against the value of any other asset)” shall be substituted ;

(v) in Annexure VI, in item 14, for the words, figures, brackets and letters “Less : Amount exempt under section 5(1A) to the extent not availed of against the value of Agricultural lands in Annexure I or II”, the words, figures, brackets and letter “Less : Amount exempt under section 5(1A) (to the extent not availed of against the value of any other asset)” shall be substituted.

Published in the *Gazette of India*, (Extra.), Part II, Section 3(i), No. 455, dated October 9, 1985.

MINISTRY OF INFORMATION

G. S. R. 787 (E).—(*New Dehli, 9th October, 1985*)—In exercise of the powers conferred by section 11 of the Cine-Workers Welfare Fund Act, 1981 (33 of 1981), the Central Government hereby makes the following rules to amend the Cine-Workers Welfare Funds Rules, 1984, namely :

1. (1) These rules may be called the **Cine-Workers Welfare Fund (Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Cine-Workers Welfare Fund Rules, 1984, in rule 3, in sub-rule (1), in clause (a), for items (i) to (vi), the following items shall be substituted, namely :—

“(i) Joint Secretary of the Government of India in the Ministry of Information and Broadcasting dealing with films industry, ex-officio—Chairman

(ii) Director-General, Labour Welfare in the Ministry of Labour, ex-officio

—Vice-Chairman

(iii) The Deputy Secretary dealing with film industry in the Ministry of Information and Boardcasting, ex-officio ;

(iv) The Deputy Secretary (Finance) in the Ministry of Information and Boardcasting, ex-officio ;

(v) Two Welfare Commissioners;

(vi) Three persons to represent the producers to be appointed after consultation with such organisation, if any, of the producers as may be recognised by the Central Government in this behalf ;

(vii) Three persons of whom one shall be a woman to represent the cine-workers to be appointed after consultation with such organisations if any, of the Cine-Workers as may be recognised by the Central Government in this behalf."

Published in the *Gazette of India, (Extra.)*, Part II, Section 3(i),
No. 438, dated September 30, 1985.

MINISTRY OF FINANCE

G.S.R. 766 (E).—(*New Delhi, the 27th September, 1985*)—In exercise of the powers conferred by section 79 of the Foreign Exchange Regulation Act 1973 (46 of 1973) the Central Government hereby makes the following rules further to amend the Foreign Exchange Regulation Rules, 1974, namely :—

1. (i) These rules may be called the Foreign Exchange Regulation (Amendment) Rules, 1985.

(ii) They shall come into force on the 1st October 1985.

2. In the Foreign Exchange Regulation Rules, 1974,—

(i) for rule 8, the following rule shall be substituted, namely :—

"8. *Period within which export value of goods is to be paid.*

The amount representing the full export value of the goods exported shall be paid to the exporter within six months from the date of export of the goods :

Provided that the Reserve Bank may, for sufficient and reasonable cause shown, extend the said period of six months"; ;

(2) In the Second Schedule in Part A, Forms GR and PP :

(a) for the words "State approximate date of delivery which must be within 6 months/3 months of the date of shipment as the case may be occurring in the original and duplicate portions of such Forms, the word "State approximate date of delivery which must be within six months of the date of shipment" shall, respectively, be substituted ;

(b) for note (5) of the "Notes to Exporters" occurring in the original portion of such Forms, the following Note shall, respectively be substituted, namely :

"(5) The amount representing the full value of goods exported must be realised within six months from the date of shipment"; ;

(c) in the duplicate portions thereof,—

(i) for the words "10 days period", occurring under the heading "For Authorised Dealer's use" ; the word "fortnight" shall, respectively be substituted ;

(ii) in note 3 of the "Notes to Authorised Dealer" for the words "please indicate the Reserve Bank of India's approval", the words "please indicate the authority conferred on the authorised dealers by or under

the Exchange Control Manual or the Authorised Dealers' Circular or Circulars as the case may be or the Reserve Bank of India's approval" shall respectively, be substituted.

Published in the *Gazette of India, (Extra.)*, Part II, Section 3(i),
No. 468, dated October 18, 1985.

MINISTRY OF HOME AFFAIRS

G. S. R. 807 (E).—(*New Delhi, the 18th October, 1985*)—In exercise of the powers conferred by section 3 of Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners (Restricted Areas) Order, 1963, namely:—

1. (1) This Order may be called the *Foreigners (Restricted Areas) Third Amendment Order, 1985*.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In para 3 to the Foreigners (Restricted Areas) Order, 1963, the following proviso shall be inserted at the end, namely:—

"Provided also that any foreign journalists holding accreditation card issued by the Press Information Bureau of the Govt. of India shall not be required to obtain permit under this order in respect of any place or area falling within the Restrictive Area of Assam".

THE-END

PART II

INDIAN PARLIAMENT ACTS, 1984 & CONSTITUTIONAL AMENDMENTS

1985

THE CONSTITUTION (FORTY-SEVENTH AMENDMENT) ACT, 1984

The following Act of Parliament received the assent of the President of the 26th August, 1984, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 70, dated August 26, 1984.

[26th August, 1984]

An Act further to amend the Constitution of India.

Be it enacted by the Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Constitution (Forty-seventh Amendment) Act, 1984**.

STATEMENT OF OBJECTS AND REASONS

Article 31B of the Constitution confers on the enactments included in the Ninth Schedule to the Constitution immunity from any possible attack that they are violative of any of the fundamental rights. The immunity does not extend to any amendment made to such Act after their inclusion in the Ninth Schedule.

2. Recourse was had in the past to the Ninth Schedule whenever it was found that progressive legislation conceived in the interest of the public was imperilled by litigation. Several State enactments relating to land reforms and ceiling on agricultural land holdings have already been included in the Ninth Schedule. The Sixth Five Year Plan (1980—85) contains an assurance that “necessary action would be taken to bring before Parliament land reform Acts not yet included in the Ninth Schedule to the Constitution for immediate inclusion in the said Schedule” and that the same “would be done in the case of future Acts without delay so that these laws are protected from challenge in courts”. The State Governments of Assam, Bihar, Haryana, Tamil Nadu, Uttar Pradesh and West Bengal and the Administration of the Union territory of Goa, Daman and Diu have suggested the inclusion of some of their Acts relating to land reforms in the Ninth Schedule. Some of the Acts suggested for inclusion are by way of amendments to Acts already included in the Ninth Schedule. The various Acts which have been suggested for inclusion have been examined and it is proposed to include in the Ninth Schedule such of these Acts as have

either been challenged or are likely to be challenged and thereby ensure that the implementation of these Acts is not adversely affected by litigation. [Vide Statement of Object and Reasons, published in the Gazette of India, Extraordinary, Part II Section 2, No. 30, dated August 19, 1983. *Editor*].

2. *Amendment of the Ninth Schedule.*—In the Ninth Schedule to the Constitution, after entry 188 and before the Explanation, the following entries shall be inserted, namely :—

“189. The Assam (Temporarily Settled Areas) Tenancy Act, 1971, (Assam Act XXIII of 1971).

190. The Assam (Temporarily Settled Areas) Tenancy (Amendment) Act, 1974 (Assam Act XVIII of 1974).

191. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) (Amending) Act, 1974 (Bihar Act 13 of 1975)

192. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1976 (Bihar Act 22 of 1976).

193. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1978 (Bihar Act VII of 1978).

194. The Land Acquisition (Bihar Amendment) Act, 1979 (Bihar Act 2 of 1980).

195. The Haryana Ceiling on Land Holdings (Amendment) Act, 1977 (Haryana Act 14 of 1977).

196. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1978 (Tamil Nadu Act 25 of 1978).

197. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979).

198. The Uttar Pradesh Zamindari Abolition Laws (Amendment) Act, 1978 (Uttar Pradesh Act 15 of 1978).

199. The West Bengal Restoration of Alienated Land (Amendment) Act, 1978 (West Bengal Act XXIV of 1978).

200. The West Bengal Restoration of Alienated Land (Amendment) Act, 1980 (West Bengal Act LVI of 1980).

201. The Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Goa, Daman and Diu Act 7 of 1964).

202. The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976 (Goa, Daman and Diu Act 17 of 1976).”

THE CONSTITUTION (FORTY-EIGHTH AMENDMENT) ACT, 1984

The following Act of Parliament received the assent of the President of the 26th August, 1984, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 71, dated August 26, 1984.

[26th August, 1984]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Constitution (Forty-eighth Amendment) Act, 1984.

2. *Amendment of article 356.*—In article 356 of the Constitution, in clause (5), the following proviso shall be inserted at the end, namely :—

“Provided that in the case of the Proclamation issued under clause (1) on the 6th day of October, 1983 with respect to the State of Punjab, the reference in this clause to “any period beyond the expiration of one year” shall be construed as a reference to “any period beyond the expiration of two years”.

THE CONSTITUTION (FORTY-NINTH AMENDMENT) ACT, 1984

The following Act of Parliament received the assent of the President on the 11th September, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 79, dated September 11, 1984.

[11th September, 1984]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the *Constitution (Forty-ninth Amendment) Act, 1984*.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of article 244.*—In article 244 of the Constitution, in clauses (1) and (2), for the words “and Meghalaya”, the “Meghalaya and Tripura” shall be substituted.

3. *Amendment of the Fifth Schedule.*—In the Fifth Schedule, to the Constitution, in paragraph 1, for the words “and Meghalaya”, the words “Meghalaya and Tripura” shall be substituted.

4. *Amendment of the Sixth Schedule.*—In the Sixth Schedule to the Constitution,—

(a) in the heading, for the words “and Meghalaya”, the words “Meghalaya and Tripura” shall be substituted ;

(b) in sub-paragraph (1) of paragraph 1, for the words and figures “Parts I and II”, the words, figures and latter “Parts I, II and IIA” shall be substituted ;

(c) after paragraph 12A, the following paragraph shall be inserted namely :—

“12AA. Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and autonomous regions in the State of Tripura—Notwithstanding anything in this Constitution,—

(a) if any provision of a law made by the District or a Regional Council in the State of Tripura with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule, or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Tripura with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Tripura, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Tripura shall prevail ;

(b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Tripura, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”;

(d) in paragraph 17, after the words “or Meghalaya”, at both the places where they occur, the words “or Tripura” shall be inserted ;

(e) in paragraph 20, —

(i) in sub-paragraph (1), —

(A) after the words and figures “in Parts I, II”, the figures and letter “IIA” shall be inserted ;

(B) after the words “the State of Meghalaya”, the words “the State of Tripura” shall be inserted ;

(ii) in sub-paragraph (2), for the words “any reference in the table below,” the words and figures “Any reference in Part I, Part II or Part III of the table below” shall be substituted ;

(iii) after sub-paragraph (2), the following sub-paragraph shall be inserted, namely :—

“(3) The reference in Part IIA in the table below to the “Tripura Tribal Areas District” shall be construed as a reference to the territory comprising the tribal areas specified in the First Schedule to the Tripura Tribal Areas Autonomous District Council Act, 1979.”;

(f) in the Table, after Part II and the entries relating thereto, the following Part shall be inserted, namely :—

“PART IIA

Tripura Tribal Areas District.”

THE CONSTITUTION (FIFTIETH AMENDMENT) ACT, 1984

The following Act of Parliament received the assent of the President on the 11th September, 1984, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 80, dated September 11, 1984.

[11 September, 1984]

An Act further to amend the Constitution of India.

Be it enacted by the Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Constitution (Fiftieth Amendment) Act, 1984.**

2. *Substitution of article 33.*—For article 33 of the Constitution, the following article shall be substituted, namely :—

“33. *Power of Parliament to modify the rights conferred by this Part in their application etc.*—Parliament may, by law, determine to what extent any of the right conferred by this Part shall, in their application, to,—

(a) the member of the Armed Forces ; or

(b) the member of the Forces charged with maintenance of public order ; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence ; or

(d) persons employed in, or in connection with the telecommunication system set up for the purpose of any Force, bureau or organisation

referred to in clauses (a) or (c),
be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them."

THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1984

The following Act of the Parliament received the assent of the President on the 16th August, 1984 and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 62, dated August 17, 1984.

[16th August, 1984]

INDIAN PARLIAMENT ACT NO. 48 OF 1984

An Act further to amend the Electricity (Supply) Act, 1948.

Be it enacted by the Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Electricity (Supply) Amendment Act, 1984**.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 28.*—In section 28 of the Electricity (Supply) Act, 1948 (54 of 1948) (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely :—

"(2A) The Board or, as the case may be, the Generating Company shall, as soon as may be after it has sanctioned any scheme which is not of the nature referred to in section 29, forward the scheme to the Authority and, if required by the Authority so to do, supply to the Authority any information incidental or supplementary to the scheme within such period as may be specified by the Authority."

3. *Amendment of section 29.*—In section 29 of the principal Act, in sub-section (1), for the words "one crore of rupees", the words "five crores of rupees" shall be substituted.

THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1984

The following Act of Parliament received the assent of the President on the 16th August, 1984, and was published in the *Gazette of India* (Ext.), Part II, Section 1, No. 63, dated August 17, 1984.

INDIAN PARLIAMENT ACT NO. 49 OF 1984

[16th August, 1984]

An Act further to amend the Industrial Disputes Act, 1947.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Industrial Disputes (Amendment) Act, 1984**.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

"STATEMENT OF OBJECTS AND REASONS

The Industrial Disputes Act, 1947, provides the machinery and procedure for the investigation and settlement of industrial disputes. The provisions of the Act had been amended from time to time in the light of experience gained in its actual working, case laws and industrial relations

policy of the Government.

2. The amendments proposed in the Act are mainly to clarify certain doubts expressed by Courts on the validity of certain provisions of the Act. The Act, *inter alia*, seeks to make the following amendments in the Act, namely :—

(i) Difficulties have arisen in the interpretation of the expression “retrenchment”. It is proposed to exclude from the definition of “retrenchment” as contained in the Act termination of the service of a workman as a result of the non-renewal of the contract of employment on its expiry and of the termination of such contract in accordance with the provisions thereof ;

(ii) Following the decision of the Supreme Court in the *Excel Wear case* (A. I. R. 1979 S. C. 25), some High Courts have declared invalid the special provisions relating to lay-off and retrenchment contained in the Act which applied to establishments employing 300 or more workmen. It is proposed to redraft these provisions on the same lines as the amended provision relating to closure, which was inserted by the Industrial Disputes (Amendment) Act, 1982 (46 of 1982), after taking into consideration the observations of the Supreme Court in the above case.

3. The Industrial Disputes (Amendment) Act, 1982, was passed by Parliament in August, 1982. A number of provisions of that Act confer considerable benefits to workmen. In order to provide that the various sections of that Act can be notified for enforcement separately and with effect from different dates it is proposed to amend suitably section 1 (2) of that Act. “[Vide Statement of Objects and Reasons, published in the Gazette of India, Extraordinary Part II section 2, No. 27, dated May 2, 1984. Editor]

2. *Amendment of section 2.*—In section 2 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter referred to as the principal Act), in clause (oo), after sub-clause (b), the following sub-clause shall be inserted, namely :—

“(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein ; or”

3. *Amendment of section 25F.*—In section 25F of the principal Act, in clause (a), the proviso shall be omitted.

4. *Amendment of section 25M.*—In section 25M of the principal Act,

(a) in sub-section (1), for the words “with the previous permission of such authority as may be specified by the appropriate Government by notification in the Official Gazette, unless such lay-off is due to the shortage of power or to natural calamity”, the words and brackets “with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereinafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion” shall be substituted ;

(b) for sub-sections (2) to (5), the following sub-sections shall be substituted, namely :—

“(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workmen (other than *badli* workmen or casual workmen) of an industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply in the prescribed manner, to the appropriate Government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate Government or the specified authority after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workmen and all other relevant factors, by order and for reason to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(6) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication :

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that

owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.”;

(c) sub-section (6) shall be re-numbered as sub-section (10).

5. *Substitution of new section for section 25N.*—For section 25N of the principal Act, the following section shall be substituted, namely :—

“25N. *Conditions precedent to retrenchment of workmen.*—(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(a) the workman has been given three months’ notice in writing, indicating the reasons for retrenchment and the period of notice, has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order:

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication :

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months."

6. *Amendment of section 25Q.*—In section 25Q of the principal Act, the words, brackets, letter and figures "clause (c) of sub-section (1) or sub-section (4) of" shall be omitted.

7. *Amendment of Act 46 of 1982.*—In the Industrial Disputes (Amendment) Act, 1982,—

(a) in sub-section (2) of section 1, after the words "by notification in the Official Gazette, appoint", the words "and different dates may be appointed for different provisions of this Act" shall be inserted;

(b) section 13 shall be omitted.

THE CINEMATOGRAPH (AMENDMENT) ACT, 1984

The following Act of Parliament received the assent of the President on the 27th August, 1984, and was published in the *Gazette of India*, (Ext.) Part II, Section 1, No. 72, dated August 28, 1984.

INDIAN PARLIAMENT ACT, NO. 56 OF 1984

[27th August, 1984]

An Act further to amend the Cinematograph Act, 1952

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the **Cinematograph (Amendment) Act, 1984.**

2. *Omission of section 6 B.*—In the Cinematograph Act, 1952 (37 of 1952) (hereinafter referred to as the principal Act), section 6 B shall be omitted.

3. *Amendment of section 7.*—In section 7 of the principal Act, in sub-section (1),—

(a) for the words "he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both and in the case of a continuing offence with a further fine which may extend to five thousand rupees for each day during which the offence continues.", the following shall be substituted, namely :—

"he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both, and in the case of a continuing offence with a further fine which may extend to twenty thousand rupees for each day during which the offence continues :

Provided that a person who exhibits or permits to be exhibited in any place a video film in contravention of the provisions of sub-clause (i) of clause (a) shall be punishable with imprisonment for a term which shall not be less than three months, but which may extend to three years and with fine which shall not be less than twenty thousand rupees, but which may extend to one lakh rupees, and in the case of a continuing offence with a further fine which may extend to twenty thousand rupees for each day during which the offence continues :

Provided further that a court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months, or a fine of less than twenty thousand rupees :"

(b) in the existing first proviso, for the words "Provided that", the words "Provided further that" shall be substituted ;

(c) in the existing second proviso, for the words "Provided further", the words "Provided also" shall be substituted.

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ACT, 1984.

The following Act of Parliament received the assent of the President on the 30th August, 1984 and was published in the *Gazette of India*, (Ext.), Part II, Section 1. No. 72-B, dated August 31, 1984.

INDIAN PARLIAMENT ACT NO. 58 OF 1984

[30th August, 1984]

An Act further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 13th day of July, 1984:

2. *Substitution of new section for section 9.*—In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) (hereinafter referred to as the principal Act), for section 9, the following section shall be substituted, namely :—

"9. *Cases in which and circumstances under which persons may be detained for periods longer than three months without obtaining the opinion of Adv-*

sory Board.—(1) Notwithstanding anything contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the 31st day of July, 1987, may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding six months from the date of his detention, where the order of detention had been made against such person with a view to preventing him from smuggling goods or abetting the smuggling of goods or engaging in transporting or concealing or keeping smuggled goods and the Central Government or any officer of Central Government, not below the rank of an Additional Secretary to that Government, specially empowered for the purposes of this section by that Government, is satisfied that such person—

(a) smuggles or is likely to smuggle goods into, out of or through any area highly vulnerable to smuggling ; or

(b) abets or is likely to abet the smuggling of goods into, out of or through any area highly vulnerable to smuggling ; or

(c) engages or likely to engage in transporting or concealing or keeping smuggled goods in any area highly vulnerable to smuggling, and makes a declaration to that effect within five weeks of the detention of such person.

Explanation 1.—In this sub-section, “area highly vulnerable to smuggling” means—

(i) the Indian customs waters contiguous to the State of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry ;

(ii) the inland area fifty kilometres in width from the coast of India falling within the territories of the State of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry ;

(iii) the inland area fifty kilometres in width from the India-Pakistan border in the States of Gujarat, Jammu and Kashmir, Punjab and Rajasthan ;

(iv) the customs airport of Delhi ; and

(v) such further or other Indian customs waters, or inland area not exceeding one hundred kilometres in width from any other coast or border of India, or such other customs station, as the Central Government may, having regard to the vulnerability of such waters, area or customs station, as the case may be, to smuggling, by the notification in the Official Gazette, specify in this behalf.

Explanation 2.—For the purposes of Explanation 1, “customs airport” and “customs station” shall have the same meaning as in clauses (10) and (13) of section 2 of the Customs Act, 1962 (52 of 1962), respectively.

(2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 8 shall have effect subject to the following modifications, namely :—

(i) in clause (b), for the words “shall, within five weeks”, the words “shall, within four months and two weeks” shall be substituted ;

(ii) in clause (c),—

(1) for the words "the detention of the person concerned", the words "the continued detention of the person concerned" shall be substituted;

(2) for the words "eleven weeks", the words "five months and three weeks" shall be substituted;

(iii) in clause (f), for the words "for the detention", at both the places where they occur, the words "for the continued detention" shall be substituted.

3. *Repeal and saving*—(1) The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1984 (8 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE DOWRY PROHIBITION (AMENDMENT) ACT, 1984.

The following Act of Parliament received the assent of the President on the 11th September, 1984 and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 77, dated September 11, 1984.

INDIAN PARLIAMENT ACT NO. 63 OF 1984

[11th September, 1984]

An Act to amend the Dowry Prohibition Act, 1961.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement*.—(1) This Act may be called the **Dowry Prohibition (Amendment) Act, 1984**;

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

"STATEMENT OF OBJECTS AND REASONS"

The evil of dowry system has been a matter of serious concern to every one in view of its ever-increasing and disturbing proportions. The legislation on the subject enacted by Parliament, i.e. the Dowry Prohibition Act, 1961 and the far-reaching amendments which have been made to the Act by a number of States during the seventies have not succeeded in containing the evil. As pointed out by the Committee on the Status of Women in India, the educated youth is grossly insensitive to the evil of dowry and unashamedly contributes to its perpetuation. Government has been making various efforts to deal with the problem. In addition to issuing instructions to the State Governments and Union territory administrations with regard to the making of thorough and compulsory investigations into cases of dowry deaths and stepping up anti-dowry publicity, Government referred the whole matter for consideration by a Joint Committee of both the Houses of Parliament. The Committees went into the whole matter in great depth and its proceedings have helped in no small measure in focussing the attention of the public and rousing the consciousness of the public against this evil.

2. The following observations made by late Pandit Jawaharlal Nehru which have been quoted by the Committee indicate the role which legislation can play in dealing with the evil.

"Legislation cannot by itself normally solve deep-rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential, so that it may give that push and have that educative factors as well as the legal sanctions behind it which help public opinion to be given a certain shape."

The recommendations made by the Joint Committee of Houses to examine the question of working of the Dowry Prohibition Act, 1961 have been considered keeping in view these observations and after taking into consideration the comments received on the Report from the State Governments, Union territory administrations and different administrative Ministries of the Union concerned with the matter. One of the important recommendations of the Committee for dealing with cruelty to a married woman by the husband or the relatives of the husband on the ground of non-receipt of dowry or insufficient dowry or has already been given effect to by the Criminal Law (Second Amendment) Act, 1983. This Act amended, inter alia, the Indian Penal Code to include therein a provision for punishment for cruelty to married women and was aimed at dealing directly with the problem of dowry suicides and dowry deaths.

3. The Joint Committee has recommended that the definition of "dowry" contained in section 2 of the 1961-Act should be modified by omitting the expression "as considerations for the marriage" used therein on the ground that it is well nigh impossible to prove that anything given were a consideration for the marriage for the obvious and simple reasons that the giver, i. e., the parents who are usually the victims would be reluctant and unwilling to set the law in motion. The omission of the words "as consideration for the marriage" would make the definition not only wide but also unworkable, for if these words are omitted, anything given, whether before or after or at the time of marriage by any one, may amount to dowry. The Supreme Court has also placed a liberal construction the word "dowry" as used in section 4 of the Dowry Prohibition Act, 1961, relating to demanding dowry. In the circumstances, it is proposed to substitute the words "in connection with the marriage" for the words "as consideration for the marriage" instead of omitting those words.

4. Section 3 of the Dowry Prohibition Act relating to the offences of giving or taking of dowry is being amended in accordance with the recommendations of the Joint Committee to make punishment for the offence more stringent. All presents given at the time of marriage to the bride and certain types of presents given at the time of marriage to the bridegroom are proposed to be excluded from the purview of the offences under this section. However, the recommendations of the Committee for exempting the giver of dowry from punishment is not being given effect to as such exemption may only prove to be counter-productive.

5. Section 4 of the Dowry Prohibition Act relating to penalty for demanding dowry is proposed to be amended to make the punishment thereunder more stringent on the lines recommended by the Joint Committee.

6. Section 6 of the Act is being amended in accordance with the recommendation of the Joint Committee, to reduce the time limit within which dowry received in connection with the marriage of a woman by any other person should be restored to the woman from one year to three

months. Likewise, the punishment for failure to restore such dowry within the said time limit is being made more stringent on the lines recommended by the Committee. Under a special provision which is being included in section 6 where a person is convicted for failure to restore the dowry to the women concerned within the period specified in the section, the court may, in addition to awarding punishment, issue a direction requiring him to restore the property to the woman within the period specified in the direction. In case of non-compliance with the direction, the value of the property would be recoverable from such person as if it were a fine and the amount so recovered may be paid to the woman concerned or, as the case may be, her heir.

7. Sections 7 and 8 of the Dowry Prohibition Act are proposed to be amended to give effect to the recommendations of the Committee as to cognizance of offences under the Act and making offences under the Act cognizable."

[Vide Statements of Objects and Reasons, Published in the Gazette of India Extraordinary, Part II, Section 2, No. 33, dated May 9, 1984 —*Editor*].

2. *Amendment of section 2.*—In Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961) (hereinafter referred to as the principal Act),—

(a) for the words "as consideration for the marriage of the said parties but does not include", the words "in connection with the marriage of the said parties, but does not include" shall be substituted ;

(b) Explanation I shall be omitted.

3. *Amendment of section 3.*—Section 3 of the principal Act shall be renumbered as sub-section (1) of that section and,—

(a) in sub-section (1) as so renumbered, for the words "with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both", the following shall be substituted, namely :—

"with imprisonment for a term which shall not be less than six months, but which may extend to two years, and with fine which may extend to ten thousand rupees or the amount of the value of such dowry, whichever is more :

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months."

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) Nothing in sub-section (1) shall apply to, or in relation to,—

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf) :

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act ;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf) :

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act :

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are

of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given."

4. *Substitution of section 4.*—For section 4 of the principal Act, the following section shall be substituted, namely :—

"4. *Penalty for demanding dowry.*—If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees :

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months."

5. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1), for the words "one year" wherever they occur, the words "three months" shall be substituted ;

(b) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years or with fine which may extend to ten thousand rupees or with both."

(c) after sub-section (3), the following sub-section shall be inserted, namely :—

"(3A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1) has not before his conviction under that sub-section, transferred such property to the woman entitled thereto or, as the case may be, her heirs, the Court shall, in addition to awarding punishment under the sub-section, direct, by order in writing, that such person shall transfer the property to such woman or, as the case may be her heirs within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman or, as the case may be, her heirs."

6. *Substitution of Section 7.*—For section 7 of the principal Act, the following section shall be substituted, namely :—

"7. *Cognizance of offences.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974.),—

(a) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act ;

(b) no court shall take cognizance of an offence under this Act except upon—

(i) its own knowledge or a police report of the facts which constitute such offence, or

(ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organisation ;

(c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of any offence under this Act.

Explanation—For the purposes of this sub-section, “recognized welfare institution or organisation” means a social welfare institution or organisation recognized in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973, (2 of 1974), shall apply to any offence punishable under this Act.”

7. *Substitution of section 8*.—For section 8 of the principal Act, the following section shall be substituted, namely :—

“8. *Offences to be cognizable for certain purposes and to be bailable and noncompoundable*.—(1) The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under the Act as if they were cognizable offences—

(a) for the purposes of investigation of such offence ; and

(b) for the purposes of matters other than—

(i) matters referred to in section 42 of that Code ; and

(ii) the arrest of a person without a warrant or without an order of a Magistrate.

(2) Every offence under this Act shall be bailable and non-compoundable.”

8. *Amendment of section 9*.—In section 9 of the principal Act, sub-section (2) shall be renumbered as sub-section (3) thereof, and before sub-section (3) as so renumbered, the following sub-section shall be inserted, namely :—

“(2) In particular, and without prejudice to the generality of the forgoing power, such rules may provide for—

(a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith ; and

(b) the better co-ordination of policy and action with respect to the administration of this Act.”

THE COPYRIGHT (AMENDMENT) ACT, 1984

The following Act of Parliament received the assent of the President on the 14th September, 1984 and was published in the *Gazette of India (Ext)*, Part II, Section 1, No. 82, dated September, 14 1984.

INDIAN PARLIAMENT ACT NO. 65 OF 1984

[14th September, 1984]

An Act further to amend the Copyright Act, 1957.

Be it enacted by the Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement*.—(1) This Act may be called the Copyright (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2*.—In section 2 of the Copyright Act, 1957 (14 of 1957) (hereinafter referred to as the principal Act),—

(a) in clause (f), the following Explanation shall be inserted at the end, namely:

Explanation.—For the purposes of this clause, “video films” shall also be deemed to be work produced by a process analogous to cinematography; ;

(b) after clause (h), the following clause shall be inserted, namely :—

“(hh) “duplicating equipment” means any mechanical contrivance or device used or intended to be used for making copies of any work ; ;

(c) in clause (o), for the words “and compilations”; the words “compilations and computer programme, that is to say, programmes recorded on any disc, tape, perforated media or other information storage device, which, if fed into or located in a computer or computer based equipment is capable of reproducing any information” shall be substituted ;

(d) in clause (t), after the words “negative”, the words “duplicating equipment” shall be inserted.

3. *Amendment of section 51.*—In section 51 of the principal Act, in clause (b),—

(a) in sub-clause (iv), the brackets and words “(except for the private and domestic use of the importer)” shall be omitted ;

(b) the following proviso shall be inserted at the end, namely :—

“Provided that nothing in sub-clause (iv) shall apply to the import of two copies of any work, other than a cinematograph film or record, for the private and domestic use of the importer.”

4. *Insertion of new section 52A.*—After section 52 of the principal Act, the following section shall be inserted, namely :—

“52A. *Particulars to be included in records and video films.*—(1) No person shall publish a record in respect of any work unless the following particulars are displayed on the record and on any container thereof, namely :—

(a) the name and address of the person who has made the record ;

(b) the name and address of the owner of the copyright in such work ; and

(c) the year of its first publication.

(2) No person shall publish a video film in respect of any work unless the following particulars are displayed in the video film, when exhibited, and on the video cassette or other container thereof, namely :—

(a) if such work is a cinematograph film required to be certified for exhibition under the provisions of the Cinematograph Act, 1959 (37 of 1952) a copy of the certificate granted by the Board of Film Certification under section 5A of that Act in respect of such work ;

(b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence or consent from the owner of the copyright in such work for making such video film ; and

(c) the name and address of the owner of the copyright in such work.”

5. *Amendment of section 63.*—In section 63 of the principal Act, for the words “shall be punishable with imprisonment which may extend to one year or with fine, or with both”, the following shall be substituted, namely :—

"shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees :

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees".

6. *Insertion of new section 63A.*—After section 63 of the principal Act, the following section shall be inserted, namely :—

"63A. *Enhanced penalty on second and subsequent convictions.*—Whoever having already been convicted of an offence under section 63 is again convicted of any such offence shall be punishable for the second and for every subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees :

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year or a fine of less than one lakh rupees :

Provided further that for the purposes of this section, no cognizance shall be taken of any conviction made before the commencement of the Copyright (Amendment) Act, 1984."

7. *Amendment of section 64.*—In section 64 of the principal Act;—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Any police officer, not below the rank of a sub-inspector, may, if he is satisfied that an offence under section 62 in respect of the infringement of copyright in any work has been, is being, or is likely to be, committed, seize without warrant, all copies of the work, and all plates used for the purpose of making infringing copies of the work, wherever found, and all copies and plates so seized shall, as soon as practicable, be produced before a Magistrate."

(b) in sub-section (2),—

(i) after the words "such copies", the words "or plates" shall be inserted ;

(ii) after the words "such copies", the words "or plates" shall be inserted.

8. *Amendment of section 65.*—In section 65 of the principal Act, for the words "one year, or with fine, or with both", the words "two years and shall also be liable to fine" shall be substituted.

9. *Insertion of new section 68-A.*—After section 68 of the principal Act, the following section shall be inserted, namely :—

"68A. Any person who publishes a record or a video film in contravention of the provisions of section 52A shall be punishable with imprisonment which may extend to three years and shall also be liable to fine".

10. In the Economic Offences (Inapplicability of Limitation) Act, 1974,—

(a) in section 2, in clause (i), after the word "enactments", the words "or provisions, if any, thereof" shall be inserted ;

(b) in the Schedule, after entry 1 relating to the Indian Income-tax Act, 1922, (11 of 1922) the following entry shall be inserted, namely :—

"1A. Clause (a) of section 63 of the Copyright Act, 1957 (14 of 1957)";

THE EMPLOYEES' STATE INSURANCE (AMENDMENT) ACT 1984

The following Act of the Parliament received the assent of the President on the 6th August, 1984 and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 59 dated August 7, 1984.

INDIAN PARLIAMENT ACT NO. 45 OF 1984

[6th August, 1984]

An Act further to amend the Employees' State Insurance Act, 1948.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—This Act may be called the Employees' State Insurance (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States or for different parts thereof.

2. *Amendment of section 2.*—In the Employees' State Insurance Act, 1948 (14 of 1948) (hereinafter referred to as the principal Act), in section 2,—

(a) in clause (2),—

(i) for the words "being not less than twenty-five but not exceeding twenty-seven consecutive weeks or", the words "being not exceeding" shall be substituted ;

(ii) in the proviso, the words "or shorter" shall be omitted ;

(b) in clause (5),—

(i) for the words "being not less than twenty-five but not exceeding twenty-seven consecutive weeks or", the words "being not exceeding" shall be substituted ;

(ii) in the proviso, the words "or shorter" shall be omitted ;

(c) in clause (9), in sub-clause (b), for the words "one thousand rupees" at both the places wherever they occur, the words "one thousand and six hundred rupees" shall be substituted ;

(d) for clause (23), the following clause shall be substituted, namely :—

"(23) "wage period" in relation to an employee means the period in respect of which wages are ordinarily payable to him whether in terms of the contract of employment; express or implied or otherwise ;

3. *Amendment of section 17.*—In section 17 of the principal Act,—

(a) in sub-section (1), for the words "one thousand and two hundred rupees", the words "two thousand and two hundred fifty rupees" shall be substituted ;

(b) in sub-sections (3) and (4), for the words and figures "Class I or Class II", the words and letters "Group A and Group B" shall be substituted.

4. *Amendment of section 39.*—In section 39 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) The wage period in relation to an employee shall be the unit in respect of which all contributions shall be payable under this Act.”;

(b) in sub-section (4), for the word “week” wherever it occurs, the words “wage period” shall be substituted.

5. *Amendment of section 42.*—In section 42 of the principal Act,—

(a) in sub-section (1), for the words “are below one rupee and fifty paise”, the words “during a wage period are below six rupees” shall be substituted ;

(b) in sub-section (2), for the word “week”, the words “wage period” shall be substituted ;

(c) sub-section (3) shall be omitted.

6. *Substitution of new section for section 47.*—For section 47 of the principal Act, the following section shall be substituted, namely :—

“47 *When person eligible for sickness benefit.*—A person shall be qualified to claim sickness benefit for sickness occurring during any benefit period if the contributions in respect of him were payable for not less than half the number of days of the corresponding contribution period.”

7. *Amendment of section 50.*—In section 50 of the principal Act, for sub-section (1) and the proviso thereto, the following sub-section shall be substituted, namely :—

“(1) An insured women shall be qualified to claim maternity benefit for confinement occurring or expected to occur in a benefit period, if the contributions in respect of her were payable of not less than half the number of days of corresponding contribution period.”

8. *Amendment of section 58.*—In section 56 of the principal Act, in sub-section (3), for the word “week”, the word “period” shall be substituted.

9. *Amendment of section 78.*—In section 78 of the principal Act, in sub-section (1), for the words and figures “section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898)”, the words and figures “section 195 and Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974)” shall be substituted.

10. *Amendment of section 95.*—In section 95 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) The power to make rules conferred by this section shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interest of any person other than the Corporation to whom such rule may be applicable.”

11. *Amendment of section 96.*—In section 96 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.”

12. *Amendment of section 97.*—In section 97 of the principal Act,—
(a) in sub-section (1), after the words “The Corporation may”, the words “with the prior approval of the Central Government and” shall be inserted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every regulation shall, as soon as may be, after it is made by the Corporation, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both House agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”

13. *Amendment of the First Schedule.*—In the First Schedule to the principal Act,—

(a) for paragraph 1, the following paragraph shall be substituted, namely:—

“1. The amount of contribution for a wage period shall be, in respect of—

(a) employer's contribution, a sum (rounded to the next higher multiple of five paise) equal to five per cent. of the wages payable to an employee;

(b) employee's contribution, a sum (rounded to next higher multiple of five paise) equal to two and one-fourth per cent. of wages payable to an employee;”

(b) in paragraph 2,—

(i) in the opening portion, after the words “daily wages”, the words “during a wage period for the purposes of Section 42 and sub-paragraph (b) of paragraph 6 of this Schedule” shall be inserted;

(ii) in sub-paragraph (b), the word “first” shall be omitted;

(iii) *Explanation II* shall be omitted;

(c) after paragraph 2, the following paragraph shall be inserted, namely:—

“2A. The average daily wages during a contribution period in respect of an employee for the purposes of paragraphs 4, 5 and sub-paragraph (a) of paragraph 6 of this Schedule shall be the sum equal to one hundred and fifteen per cent. of the aggregate amount of wages payable to him during that period divided by the number of days (including paid holidays and leave days) for which such wages were payable.”

(d) for paragraph 3 and the Table thereunder, the following paragraph and the Table shall be substituted, namely:—

“3. Daily rate of benefit (hereinafter referred to as the “standard benefit rate”) in respect of employees specified in the first column of the Table below shall be the amount respectively specified in the corresponding entry in the second column thereof.

TABLE

Group of employees whose average daily wages are	Corresponding daily standard benefit rate
1	2
	Rs. P.
1. Below Rs. 6	2.50
2. Rs. 6 and above but below Rs. 8	3.50
3. Rs. 8 and above but below Rs. 12	5.00
4. Rs. 12 and above but below Rs. 16	7.00
5. Rs. 16 and above but below Rs. 24	10.00
6. Rs. 24 and above but below Rs. 36	15.00
7. Rs. 36 and above	20.00

14. *Substitution of third Third Schedule.*—For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely:—

“THE THIRD SCHEDULE
(See section 52A)
List Of Occupational Diseases

Sl. No.	Occupational disease	Employment
1	2	3

PART A

- | | |
|---|---|
| 1. Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination. | (a) All work involving exposure to health or laboratory work ;

(b) All work involving exposure to veterinary work ;
(c) Work relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animals carcasses ;
(d) Other work carrying a particular risk of contamination. |
| 2. Diseases caused by work in compressed air. | All work involving exposure to the risk concerned. |
| 3. Diseases caused by lead or its toxic compounds. | All work involving exposure to the risk concerned. |
| 4. Poisoning by nitrous fumes | All work involving exposure to the risk concerned. |
| 5. Poisoning by organophosphorus compounds. | All work involving exposure to the risk concerned. |

1 2 3

PART B

- | | |
|--|---|
| 1. Diseases caused by phosphorus or its toxic compounds. | All work involving exposure to the risk concerned. |
| 2. Diseases caused by mercury or its toxic compounds | All work involving exposure to the risk concerned. |
| 3. Diseases caused by benzene or its toxic homologues. | All work involving exposure to the risk concerned. |
| 4. Diseases caused by nitro and amido toxic derivatives of benzene or its homologues. | All work involving exposure to the risk concerned. |
| 5. Diseases caused by chromium or its toxic compounds. | All work involving exposure to the risk concerned. |
| 6. Diseases caused by arsenic or its toxic compounds. | All work involving exposure to the risk concerned. |
| 7. Diseases caused by radioactive substances and ionising radiations. | All work involving exposure to the action of radioactive substances or ionising radiations. |
| 8. Primary epithelomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances. | All work involving exposure to the risk concerned. |
| 9. Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series). | All work involving exposure to the risk concerned. |
| 10. Diseases caused by the carbon disulphide. | All work involving exposure to the risk concerned. |
| 11. Occupational cataract due to infra-red radiations. | All work involving exposure to the risk concerned. |
| 12. Diseases caused by manganese or its toxic compounds. | All work involving exposure to the risk concerned. |
| 13. Skin diseases caused by physical, chemical or biological agents not included in other items. | All work involving exposure to the risk concerned. |
| 14. Hearing impairment caused by noise. | All work involving exposure to the risk concerned. |
| 15. Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances. | All work involving exposure to the risk concerned. |
| 16. Diseases caused by beryllium or its toxic compounds. | All work involving exposure to the risk concerned. |
| 17. Diseases caused by cadmium or its toxic compounds. | All work involving exposure to the risk concerned. |
-

1

2

3

18. Occupational asthma caused by recognised sensitising agents inherent to the work process.

All work involving exposure to the risk concerned.

19. Diseases caused by fluorine or its toxic compounds.

All work involving exposure to the risk concerned.

20. Diseases caused by nitroglucose or other nitroacid esters.

All work involving exposure to the risk concerned.

21. Diseases caused by alcohols and ketones.

All work involving exposure to the risk concerned.

22. Diseases caused by asphyxiant: carbon monoxide, and its toxic derivatives, hydrogen sulfide.

All work involving exposure to the risk concerned.

23. Lung cancer and mesotheliomas caused by asbestos.

All work involving exposure to the risk concerned.

24. Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.

All work involving exposure to the risk concerned.

PART C

1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthracosilicosis asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death.

All work involving exposure to the risk concerned.

2. Bagassosis.

All work involving exposure to the risk concerned.

3. Bronchopulmonary diseases caused by cotton, flax, hemp and sisal dust (Byssinosis).

All work involving exposure to the risk concerned.

4. Extrinsic allergic alveolitis caused by the inhalation of organic dusts.

All work involving exposure to the risk concerned.

5. Bronchopulmonary diseases caused by hard metals.

All work involving exposure to the risk concerned."

15. *Validation.*—The Employees' State Insurance Corporation (General Provident Fund) Rules, 1973 shall be and shall be deemed always to have been as valid and effective as if the provisions of section 95 of the principal Act, as amended by this Act, were in force at the time when those rules were made.

**THE LEVY SUGAR PRICE EQUALISATION FUND (AMENDMENT)
ACT, 1984.**

The following Act of the Parliament received the assent of the President on the 30th August, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 68, dated August 23, 1984.

INDIAN PARLIAMENT ACT NO. 54 OF 1984.

[23rd August, 1984.]

An Act to amend the Levy Sugar Price Equalisation Fund Act, 1976.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Levy Sugar Price Equalisation Fund (Amendment) Act, 1984.**

2. *Amendment of section 2.*—In section 2 of the Levy Sugar Price Equalisation Fund Act, 1976 (31 of 1976), (hereinafter referred to as the principal Act),—

(a) in clause (b), the following *Explanation* shall be inserted and shall be deemed always to have been inserted, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that where in relation to levy sugar of any grade sold by any producer, the producer has realised towards duties of excise with respect to such sugar any amount in excess of the amount payable by way of such duties, such excess shall be also deemed to be excess realisation within the meaning of this clause;”

(b) for clause (e), the following clause shall be substituted and shall be deemed always to have been substituted, namely :—

“(e) “levy sugar” means the sugar requisitioned by the Central Government under clause (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955);”

3. *Amendment of section 3.*—In section 3 of the principal Act,—

(a) in sub-section (2), in the opening portion, for the words, brackets and figure “provided in sub-section (4),” the words, brackets and figure “provided in sub-section (5)” shall be substituted;

(b) in sub-section (3),—

(i) in the opening portion, for the words, brackets and figure “provided in sub-section (4),” the words, brackets and figure “provided in sub-section (5)” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely :—

“Provided that—

(a) the interest due on so much of any amount of any excess realisation made before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984, as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent, per annum before the expiry of sixty days from the date of such commencement; and

(b) the interest due on so much of the amount of any excess realisation made on or after the date of such commencement as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent, per annum within sixty days from the date on which such amount was realised,

shall be at the rate of fifteen per cent per annum from the date on which such amount was realised by the producer.”;

(c) sub-section (4) shall be omitted ;

(d) in sub-section (5),—

(i) in the opening portion, for the words, brackets and figure “interim order referred to in sub-section (4)”, the words “interim order made by any court, whether before or after the commencement of this Act” shall be substituted ;

(ii) in the concluding portion, for the words “or in any court of appeal or revision, credit such amount, to the extent it represents any excess realisation, to the Fund”, the following shall be substituted, namely :—

“credit to the Fund, within sixty days from the date of such final disposal, such amount, to the extent it represents any excess realisation together with interest due thereon at the rate of twelve and a half per cent. per annum from the date on which such amount was realised by him:

Provided that—

(i) the interest due on so much of such amount as was realised before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 and is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent per annum before the expiry of sixty days from the date of such commencement, and

(ii) the interest due on so much of such amount as is realised after such commencement and not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent per annum within sixty days from the date on which such amount was realised, shall be at the rate of fifteen per cent per annum from the date on which such amount was realised by the producer”;

(e) after sub-section (5), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely :—

“(5A) Notwithstanding anything contained in sub-section (5), the interest payable on the amount of any excess realisation required to be credited to the Fund under that sub-section in respect of any period during which such amount was by reason of any order of any court held by the producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, shall be the interest which actually accrued on such amount in respect of such period.”;

(f) after sub-section (5A) as so inserted, the following sub-section shall be inserted, namely :—

“(5B) Without prejudice to the provisions of sub-section (5), any amount representing the difference between the controlled price and the interim price allowed by the court which—

(a) is held by any producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, or

(b) is under the cover of any guarantee referred to in clause (b) of that sub-section,

shall, as soon as may be after the final disposal of the proceedings of the court aforesaid, be credited, to the extent such amount represents excess

realisation together with the interest, if any, which has accrued thereon or been guaranteed in respect thereof, to the Fund by such other person, the court, Government, bank or other authority aforesaid or, as the case may be, by the bank or other person furnishing such guarantee and the amount so credited shall be set off against the amount (including interest) required to be credited by the producer under sub-section (5).

(5C) The provisions of sub-section (5B) shall apply in relation to every amount representing the difference between the controlled price and the interim price allowed by the court which, immediately before the commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984—

(a) is held by any producer with any other person or with any court, Government, bank or other authority mentioned in clause (a) of that sub-section, or

(b) is under the cover of any guarantee mentioned in clause (b) of that sub-section.

notwithstanding that the final disposal of the proceedings of the court aforesaid took place before such commencement and for this purpose the reference in that sub-section to "final disposal of the proceedings of the court" shall be construed as a reference to such commencement.

(5D) Where any amount is credited to the Fund under sub-section (5B), such crediting shall,—

(a) in a case falling under clause (a) of that sub-section, operate as the discharge of the liability in relation to such amount of the person, court, Government, bank or other authority so crediting the amount ;

(b) in a case falling under clause (b) of that sub-section, have effect as if it had been made in accordance with the guarantee given by the bank or other person crediting the amount and for this purpose such guarantee shall be deemed to have provided for such crediting.

4. *Amendment of section 5.*—In section 5 of the principal Act, for the words "the producer by whom such amount is credited", the words "the producer concerned" shall be substituted.

5. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1), in the proviso,—

(i) in clause (b), the word "or" shall be inserted at the end and shall be deemed always to have been inserted ;

(ii) after clause (b), the following clause shall be inserted and shall be deemed always to have been inserted, namely :—

"(c) being a person who is not a wholesale dealer or a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to any other person as part of the price of any product in the manufacture of which such sugar has been used or, as the case may be, to the consumer by whom the price of such sugar was paid."

(b) in sub-section (3), for the words "excess realisation made from him", the words "excess realisation made from him together with interest (if any) thereon credited to the Fund" shall be substituted and shall be deemed always to have been substituted.

6. *Amendment of section 11.*—In section 11 of the principal Act, for

the words "any excess realisations made by him or any part thereof, such excess realisations or such part", the words "any excess realisation made by him, or any interest due on such excess realisation or any part of such excess realisation or interest, such excess realisation or such interest or such part" shall be substituted and shall be deemed always to have been substituted.

7. *Amendment of section 13.*—In section 13 of the principal Act, in sub-section (1), in clause (a), after the words "any realisations made by him or any part thereof", the words "any excess realisation made by him, or any interest due on such excess realisation or any part of such excess realisation or interest" shall be substituted.

8. *Validation and saving.*—(1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, anything or action done or taken or purporting to have been done or taken under the provisions of the principal Act before the commencement of this Act shall, for all purposes, be deemed to be, and to have always been, as validly and effectively done or taken as if the amendments made to the principal Act by section 2, clause (e) of section 3, section 5 and section 6 had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the provisions of section 2, clause (e) of section 3, section 5, section 6 and sub-section (1) of this section had not come into force.

THE UNIVERSITY GRANTS COMMISSION (AMENDMENT) ACT, 1984.

The following Act of the Parliament received the assent of the President on the 30th August, 1984 and was published in the *Gazette of India*, (Ext.) Part II, Section 1, No. 72-C, dated August 31, 1984.

INDIAN PARLIAMENT ACT NO. 59 OF 1984.

[30th August, 1984.]

An Act further to amend the University Grants Commission Act, 1956.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) The Act may be called the **University Grants Commission (Amendment) Act, 1984.**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 12.*—In section 12 of the University Grants Commission Act, 1956 (3 of 1956), (hereinafter referred to as the principal Act), after clause (cc), the following clause shall be inserted, namely :—

"(ccc) establish, in accordance with the regulations made under this Act, institutions for providing common facilities, services and programmes for a group of universities or for the universities in general and maintain such institutions or provide for their maintenance by allocating and disbursing out of the Fund of Commission such grants as the Commission may deem necessary;"

3. *Insertion of new section 12A.*—In the principal Act, section 12A shall be renumbered as section 12B, and before section 12B as so renum-

bered, the following section shall be inserted, namely :—

12A. Regulation of fees and prohibition of donations in certain cases.—

(1) In this section,—

(a) “affiliation”, together with its grammatical variations, includes, in relation to a college, recognition of such college by, association of such college with, and admission of such college to the privileges of a, university ;

(b) “college” means any institution, whether known as such or by any other name which provides for a course of study for obtaining any qualification from a university and which, in accordance with the rules and regulations of such university, is recognised as competent to provide for such course of study and present students undergoing such course of study for the examination for the award of such qualification ;

(c) “prosecution”, in relation to a course of study, includes promotion from one part or stage of the course of study to another part or stage of the course of study ;

(d) “qualification” means a degree or any other qualification awarded by a university ;

(e) “regulations” means regulations made under this Act ;

(f) “specified course of study” means a course of study in respect of which regulations of the nature mentioned in sub-section (2) have been made ;

(g) “student” includes a person seeking admission as a student ;

(h) “university” means a university or institution referred to in sub-section (1) of section 22.

(2) Without prejudice to the generality of the provisions of section 12 if, having regard to—

(a) the nature of any course of study for obtaining any qualification from any university ;

(b) the types of activities in which person obtaining such qualification are likely to be engaged on the basis of such qualification ;

(c) the minimum standards which a person possessing such qualification should be able to maintain in his work relating to such activities and the consequent need for ensuring, so far as may be, that no candidate secures admission to such course of study by reason of economic power and thereby prevents a more meritorious candidate from securing admission to such course of study ; and

(d) all other relevant factors,

the Commission is satisfied that it is necessary so to do in the public interest, it may, after consultation with the university or universities concerned, specify by regulations the matters in respect of which fees may be charged, and the scale of fees in accordance with which fees shall be charged in respect of those matters on and from such date as may be specified in the regulations in this behalf, by any college providing for such course of study from, or in relation to, any student in connection with his admission to, and prosecution of, such course of study :

Provided that different matters and different scales of fees may be so specified in relation to different universities or different classes of colleges or different areas.

(3) Where regulations of the nature referred to in sub-section (2)

have been made in relation to any course of study, no college providing for such course of study shall—

(a) levy or charge fees in respect of any matter other than a matter specified in such regulations ;

(b) levy or charge any fees in excess of the scale of fees specified in such regulations, or

(c) accept, either directly or indirectly, any payment (otherwise than by way of fees) or any donation or gift (whether in cash or kind), from, or in relation to, any student in connection with his admission to, and prosecution of, such course of study.

(4) If, after making, in relation to a college providing for a specified course of study, an inquiry in the manner provided by regulations, and after giving such college a reasonable opportunity of being heard, the Commission is satisfied that such college has contravened the provisions of sub-section (3), the Commission may, with the previous approval of the Central Government, pass an order prohibiting such college from presenting any students then undergoing such course of study therein to any university for the award of the qualification concerned.

(5) The Commission shall forward a copy of the order made by it under sub-section (4) to the university concerned, and on and from the date of receipt by the university of a copy of such order, the affiliation of such college to such university shall, in so far as it relates to the course of study specified in such order, stand terminated and on and from the date of termination of such affiliation and for a period of three years thereafter affiliation shall not be granted to such college in relation to such or similar course of study by that or any other university.

(6) On the termination of the affiliation of any college under sub-section (5), the Commission shall take all such steps as it may be considered appropriate for safeguarding the interests of the students concerned.

(7) The provisions of this section and the regulation made for the purposes of this section shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. *Amendment of section 14.*—In section 14 of the principal Act, after the words “If any University”, the words, brackets, figures and letter “grant affiliation in respect of any course of study to any college referred to in sub-section (5) of section 12A in contravention of the provisions of that sub-section or” shall be inserted.

5. *Amendment of section 25.*—In section 25 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) The powers to make rules conferred by this section shall include the powers to give retrospective effect from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.

6. *Amendment of section 26.*—In section 26 of the principal Act,

(a) in sub-section (1),—

(i) in the opening paragraph, for the words “may make regula-

tions", the words "may, by notification in the Official Gazette, make regulations" shall be substituted ;

(ii) after clause (g), the following clauses shall be inserted, namely :—

"(h) regarding the establishment of institution referred to in clause (ccc) of section 12 and other matters relating to such institutions ;

(i) specifying the matter in respect of which fees may be charged, and scales of fees in accordance with which fees may be charged, by a college under sub-section (2) of section 12A ;

(j) specifying the manner in which an inquiry may be conducted under sub-section (4) of section 12A." ;

(b) in sub-section (2), after the word, brackets and letter "clause (d)", the words, brackets and letters, "or clause (h) or clause (i) or clause (j)" shall be inserted ;

(c) after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) The power to make regulations conferred by this section [except clause (i) and clause (j) of sub-section (1)] shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the regulations or any of them but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable."

7. *Amendment of section 27.*—In section 27 of the principal Act, in sub-section (1), for the words "by regulations made", the words "regulations made, by notification in the Official Gazette," shall be substituted.

8. *Insertion of new section 28.*—After section 27 of the principal Act, the following section shall be inserted, namely :—

"28. *Laying of rules and regulations before Parliament.*—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation."

9. *Validation.*—No rule made, or purporting to have been made, with retrospective effect, under section 25 of the principal Act before the commencement of this Act shall be deemed to have been invalid or ever to have been invalid merely on the ground that such rule was made with retrospective effect and accordingly every such rule and every action taken or thing done thereunder shall be as valid and effective as if the provisions of section 25 of the principal Act, as amended by this Act, were in force at all material times when such rule was made or action or thing was taken or done.

THE EXPORT (QUALITY CONTROL AND INSPECTION) AMENDMENT ACT, 1984:

The following Act of the Parliament received the assent of the President on the 27th May, 1984 and was published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 48, dated May 28, 1984.

INDIAN PARLIAMENT ACT NO. 40 OF 1984.

[27th May, 1984]

An Act to amend the Export (Quality Control and Inspection) Act, 1963.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Export (Quality Control and Inspection) Amendment Act, 1984.**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

STATEMENT OF OBJECTS AND REASONS

For the sound development of the export trade of India through quality control and inspection, the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) was enacted in 1963. The Act came into force from 1st January, 1964 and it empowers the Central Government to notify commodities for the purposes of compulsory quality control and pre-shipment inspection. Once a commodity was notified, it cannot be exported unless it is accompanied by a certificate of export worthiness, issued by an export inspection agency established or recognised by the Government under the Act.

2. Under section 3 of the Act, the Export Inspection Council was established on the 1st January, 1964 and its main function is to advise the Central Government regarding measures of enforcement of quality control and inspection of commodities intended for export. Five export inspection agencies have been established under the provisions of the Act and a few private inspection agencies have also been given recognition under the provisions of the Act.

3. Of late, a need has been felt for giving greater emphasis on measures of quality control and per-shipment inspection in the interest of projecting the right image for Indian goods in overseas markets. With a view to achieving this object, a review was made of the working of the provisions of the Act in the light of the experience gained in the working of the Act. This review has come to light certain inadequacies, deficiencies and lacunae in the Act and it is proposed to amend some of the provisions of the Act so as to enable the Export Inspection Council and the export inspection agencies to administer the compulsory quality control and pre-shipment inspection schemes more effectively.

4. The Act accordingly provides for the following changes in the Act, namely :—

(i) it is proposed to enlarge the membership of the Export Inspection Council by four persons who will be nominated by the Central Government ;

(ii) under the existing provisions, a certificate of export worthiness once issued to a commodity by the export inspection agency cannot be withdrawn even if there are reasons to believe that the certificate was issued

wrongly or fraudulently. It is proposed to empower the agencies to amend or suspend or cancel such certificate in accordance with the procedure to be prescribed by rules under the Act ;

(iii) the Act at present provides for prosecutions only for fraudulent use of export worthy certificates or other violations of the Act. Experience has shown that these steps did not have the desired effect in curbing the abuses of the quality control and pre-shipment inspection facilities. There is also no guarantee that the sentences of imprisonment or fine imposed by courts would mop up the ill-gotten gains accruing to persons misusing the facilities. With a view to remove this lacuna in the Act, it is proposed to provide for the entry, inspection and search of premises in which notified commodities which have been manipulated after examination by the export inspection agencies or documents or things in connection therewith are suspected to have been kept or concealed and to seize them. Provision for the confiscation of such commodities and imposition of penalties have also been proposed in the Bill ;

(iv) in order to have a check on the misuse or abuse of powers by the officers of the Export Inspection Council or of the export inspection agencies, it is proposed to make a provision by which the delinquent officers who have misused their authority would be liable to punishment under the Act ;

(v) under the existing provisions, commodities notified by the Central Government are prohibited from export unless they are accompanied by certificates issued by export inspection agencies. There may be some special contingencies when it may be necessary for temporary suspension or relaxation of all or any of the provisions of the Act in respect of certain commodities or areas. It is proposed to provide this power to the Central Government.

[Vide Statement of Object and Reasons published in the Gazette of India, Ext., Part II, Section 2, No. 49, dated December, 12, 1983. (Editor.)]

2. *Amendment of section 2.*—In section 2 of the Export (Quality Control and Inspection) Act, 1953 (22 of 1953), (hereinafter referred to as the principal Act), clause (a) shall be re-lettered as clause (ac), and before clause (ac), as so re-lettered, the following clauses shall be inserted, namely :—

(a) “adjudicating authority” means the authority specified in, or under, section 10K ;

(ab) “Appellate authority” means the Appellate Authority referred to in section 10K ;

3. *Amendment of section 3.*—In section 3 of the principal Act, in sub-section (1), in clause (j), for the word “eleven”, the word “fifteen” shall be substituted.

4. *Amendment of section 7.*—In section 7 of the principal Act,—

(a) after sub-section (3), the following sub-section shall be inserted, namely :—

“(3A) Where the agency has reason to believe that a certificate issued under sub-section (3) has been obtained fraudulently or by misrepresentation, or the commodity in relation to which the certificate is issued has been changed or has deteriorated in quality, the agency may, by

order, amend, suspend or cancel the certificate in such manner and subject to such procedure as may be prescribed :

Provided that before amending, suspending or cancelling any such certificate the holder thereof shall be given a reasonable opportunity of being heard.”;

(b) in sub-section (4), after the words “a certificate”, the words, brackets, figure and letter, “or by the amendment, suspension or cancellation of a certificate under sub-section (3A),” shall be inserted.

5. *Insertion of new sections 10A to 10P.*—After section 10 of the principal Act, the following sections shall be inserted, namely :—

10A. Power to enter and inspect.—The Director of Inspection and Quality Control or any officer of the Central Government authorised by him in writing in this behalf (hereinafter referred to as the “authorised officer”) may enter at any reasonable time, any premises in which—

(a) any commodity which has been changed after inspection by any agency referred to in sub-section (1) of section 7 ; or

(b) any books of account or other documents or things which in his opinion, will be useful for, or relevant to, any proceeding under this Act,

are suspected to have been kept or concealed, and inspect such commodity books of account, other documents or things and may take such notes or extracts from such books of account or other documents as he may think fit.

10B. Power to search.—If the authorised officer has any reason to believe that—

(a) any commodity which has been changed after inspection by any agency referred to in sub-section (1) of section 7 ; or

(b) any books of account or other documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act,

are secreted in any place, he may enter into and search such place or premises for such commodity, books of account, other documents or things.

10C. Power to seize commodities, etc.—(1) If the authorised officer has any reason to believe that any commodity is liable to confiscation under this Act, he may seize such commodity together with the package, covering or receptacle, if any, in which such commodity is found and where such commodity is found to have been mixed with any other goods or materials, he may seize such commodity together with the goods or materials with which it is so mixed :

Provided that where it is not practicable to seize any such commodity the authorised officer may serve on the owner of the commodity an order that he shall not remove, part with, or otherwise deal with, the commodity except with the previous permission of such authorised officer.

(2) Where any commodity is seized under sub-section (1) and no notice in respect thereof is given under section 10L within six months of the seizure of such commodity, it shall be returned to the person from whose possession it was seized :

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Director of Inspection and Quality Control by a further period not exceeding six months..

(3) The authorised officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised officer.

(5) If any person legally entitled to the documents or things seized under sub-section (3) objects, for any reason, to the retention by the authorised officer of the documents or things, he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the documents or things.

(6) On receipt of an application under sub-section (5), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit.

(7) Where any document—

(a) is produced or furnished by any person or has been seized from the custody or control of any person under this Act or any other law for the time being in force; or

(b) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed) in the course of the investigation of any offence alleged to have been committed by any person against this Act,

and such document is tendered in evidence against the person by whom it is produced or from whom it was seized or against such person and any other person who is jointly tried, or proceeded against, with him, the court, or, as the case may be, the adjudicating authority shall, notwithstanding anything to the contrary contained in any other law for the time being in force,—

(i) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court or the adjudicating authority may reasonably assume to have been signed by, or to be in the writing of, any particular person, is under that person's handwriting, and, in the case of a document executed or attested, it was executed or attested by the person by whom it purports to have been so executed or attested;

(ii) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

10D. Power to stop and seize conveyances.—Any authorised officer may, if he has any reason to suspect that any conveyance or animal is being, or is about to be, used for the transportation of any commodity which is liable to confiscation under this Act and that by such transportation any provision of this Act has been, is being or is about to be contravened, at any time, stop such conveyance or any animal or, in the case of an aircraft, compel it to land, and

(a) rummage and search the conveyance or any part thereof,

(b) examine and search any goods or materials in the conveyance or on the animal,

(c) if it becomes necessary to stop any conveyance or animal, he may use all lawful means for stopping it and where such means fail, the conveyance or animal may be fired upon;

and where he is satisfied that it is necessary so to do to prevent the contravention of any provision of this Act, he may seize such conveyance or animal.

Explanation.—Any reference in this section to a conveyance shall, unless the context otherwise requires, be construed as include a reference to an aircraft, vehicle or vessel.

10E. Search and seizure to be made in accordance with the Code of Criminal Procedure, 1973—The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall, so far as may be, apply to every search or seizure made under this Act.

10F. Confiscation.—Any commodity in respect of which—

(a) a certificate has been obtained from an agency referred to in sub-section (1) of section 7 fraudulently or by misrepresentation, or

(b) any provision of this Act has been, is being, or is attempted to be, contravened,

shall, together with any package, covering or receptacle in which such commodity is found, be liable to confiscation and, where such commodity is so mixed with any other goods or materials that it cannot be readily separated, such other goods or materials shall also be liable to confiscation :

Provided that where it is established to the satisfaction of the adjudging authority that any commodity, which is liable to confiscation under this Act, belongs to a person other than the person who has, by any act or omission, rendered it liable to confiscation, and such act or omission was without the knowledge or connivance of the person to whom it belongs, such commodity shall not be ordered to be confiscated ; but such other action as is authorised by this Act may be taken against the person who, has, by such act or omission, rendered such commodity liable to confiscation.

10G. Confiscation of conveyance—Any conveyance or animal which has been, is being, or is attempted to be, used for the transport of any commodity which is liable to confiscation under this Act, shall be liable to confiscation unless the owner of the conveyance or animal proves that it was, is being, or is about to be, so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use :

Provided that in the case of a conveyance or animal used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay, in lieu of the conveyance or animal, a fine not exceeding the value of the commodity which has been, is being, or is attempted to be, transported by such conveyance or animal.

10H. Option to pay fine in lieu of confiscation.—Whenever confiscation of any commodity is authorised by this Act, the officer adjudging it shall, without prejudice to the provisions of the proviso to section 10G, give to the owner of the commodity an option to pay in lieu of confiscation such fine not exceeding the value of the commodity.

10-I. Liability to penalty.—Any person,—

(a) who, in relation to any commodity, does or omits to do any act which act or omission would render such commodity liable to confisca-

tion under this Act, or abets the doing or omission of such an act ; or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, keeping concealing, selling or purchasing, or in any manner dealing with, any commodity which he knows or has reason to believe is liable to confiscation under the Act,

shall be liable to a penalty not exceeding five times the value of the commodity or five thousand rupees, whichever is more, whether or not such commodity has been confiscated or is available for confiscation.

10J. Confiscation or penalty not to interfere with other punishments.—No confiscation made or penalty imposed under the forgoing provisions of this Act shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

10K. Adjudication.—Any confiscation may be adjudged or penalty may be imposed under this Act by the Director of Inspection and Quality Control, or, where he so directs, by a general or special order, by, any officer subordinate to him.

10L. Giving of opportunity to the owner of goods, etc.—No order of adjudication of confiscation or imposing a penalty shall be made unless the owner of the commodity, conveyance or animal or other person concerned, is given a notice in writing—

(a) informing him of the grounds on which it is proposed to confiscate such commodity, conveyance or animal or to impose penalty ;

(b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the confiscation or imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

10M. Appeal.—(1) Any person aggrieved by any decision or order made under this Act may prefer an appeal,—

(a) where the decision or order has been made by the Director of Inspection and Quality Control, to the Central Government ;

(b) where the decision or order has been made by any officer subordinate to the Director of Inspection and Quality Control, to the Director of Inspection and Quality Control, within a period of forty-five days from date on which the decision or order is served on such person :

Provided that the Appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period of forty-five days, allow such appeal to preferred within a further period of forty-five days :

Provided further that in the case of an appeal against an order imposing a penalty, no such appeal shall be entertained unless the amount of the penalty has been deposited by the appellant :

Provided also that where the Appellate authority is of the opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such

further inquiries, if any, as it may consider necessary, pass such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary :

Provided that an order enhancing or imposing a penalty or confiscating commodity of a greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and, if he so desires, of being heard, in his defence.

10-N. Powers of revision.—The Central Government may, on its own motion or otherwise, call for and examine the records of any proceeding in which an order of adjudication of confiscation or imposing any penalty has been made by any officer under this Act and against which no appeal has been preferred, for the purpose of satisfying itself as to the correctness, legality or propriety of such order or decision and pass such orders thereon as it may think fit :

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(b) has been given a reasonable opportunity of making a representation and, if he so desires, of being heard in his defence.

10-O. Powers of adjudicating and other authorities.—(1) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of witnesses ;
- (b) requiring the discovery and production of any document ;
- (c) requisitioning any public record or copy thereof from any court or officer ;
- (d) receiving evidence on affidavits ; and
- (e) issuing commissions for the examination of witness or documents.

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall be deemed to be a Civil Court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

10-P. Continuance of proceedings in the event of death or insolvency.—

(1) Where a penalty has been imposed by the adjudicating authority and—

(a) no appeal against the order imposing such penalty has been preferred to the Appellate authority and the person entitled to file such

appeal dies or is adjudicated an insolvent before the expiry of the period within which the appeal can be preferred; or

(b) an appeal has been preferred to the Appellate authority against the order imposing such penalty but the appellant dies or is adjudicated an insolvent during the pendency of the appeal, then, it shall be lawful for the legal representatives, of such person or the Official Assignee or the Official Receiver, as the case may be, to prefer an appeal to the Appellate authority or, as the case may be, to continue the appeal before the Appellate authority, in place of such person and the provisions of section 10M shall, so far as may be, apply or continue to apply to such appeal.

(2) The powers of the Official Assignee or the Official Receiver under sub-section (1) shall be exercised by him subject to the provisions of the Presidency-towns Insolvency Act, 1909 (3 of 1909), or the Provincial Insolvency Act, 1920 (5 of 1920), as the case may be.

6. *Amendment of section 11.*—In sub-section (1) of section 11 of the principal Act, in clause (ii), for the words “two years”, the words “three years” shall be substituted.

7. *Insertion of new section 11A, 11B and 11C.*—After section 11 of the principal Act, the following sections shall be inserted, namely:—

“11A. *Penalty for contravention of order made by adjudicating authority or Appellate authority.*—If any person fails to pay the penalty imposed by the adjudicating or the Appellate authority or fails to comply with any direction or order made, or deemed to have been made, under this Act, he shall, on conviction, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

11B. *Offences by officers and employees of agency, etc.*—(1) If any officer or employee of the Council or of any agency referred to in sub-section (1) of section 7, or any surveyor, sampler or employee of any testing house, referred to in sub-section (2) of that section enters into, or acquiesces in, any agreement to do, abstains doing, permits, conceals or connives at, any act or thing whereby any provision of this Act is or may be contravened, he shall, on conviction, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(2) If any officer searches or authorises any other officer of the Central Government to search any place without having reason to believe that any commodity, books of account or documents or things of the nature referred to in section 10B are secreted in that place, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) If any officer or employee of the Council or of any agency referred to in sub-section (1) of section 7, or any surveyor, sampler or employee of any testing house, referred to in sub-section (2) of that section, except in the discharge in good faith of his duty as such officer or employee or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any commodity, he shall, on conviction, be punishable

with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

11C. Correction of clerical or arithmetical mistakes.—Clerical or arithmetical mistakes in any decision or order, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the authority by which the decision or order was made either on its own motion or on the application of the aggrieved person :

Provided that where any correction proposed to be made under this section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving to that person a reasonable opportunity of making a representation in the matter and such correction shall be made after the expiry of a period of two years from the date on which such decision or order was made”.

8. Insertion of new section 16A.—After section 16 of the principal Act, the following section shall be inserted, namely :—

“**16A Suspension, etc., of operation of the provisions of the Act.**—(1) If the Central Government is satisfied that circumstances which render it necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, suspend or relax to a specified extent, the operation of all or any of the provisions of this Act in respect of such notified commodity or commodities generally or in respect of any area for such period as may be specified in the notification.

(2) Where the operation of any provision of this Act has, under sub-section (1), been suspended or relaxed, such suspension or relaxation may, at any time be removed by the Central Government by a like notification.

(3) Every notification issued under this section shall be laid, as soon as may be after it is issued before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.”

9. Amendment of section 17.—In section 17 of the Principal Act,—

(a) in sub-section (2),—

(i) after clause (f), the following clause shall be inserted, namely :—

“(ff) the manner in which, and the procedure subject to which, any certificate under sub-section (3) of section 7 shall be amended, suspended or cancelled.”

(ii) after clause (g), the following clause shall be inserted, namely :—

“(gg) the authority or person by which or by whom, and the manner in which, any document received from a place outside India shall be authenticated;”;

(b) in sub-section (3), for the words "in which it is so laid", the words "immediately following the session" shall be substituted.

THE BANKING SERVICE COMMISSION ACT, 1984

The following Act of the Parliament received the assent of President on the 2nd June, 1984 and was published in the *Gazette of India (Ext)*, Part II, Section 1, No. 52, dated June 2, 1984.

INDIAN PARLIAMENT ACT NO. 44 OF 1984

An Act to provide for establishment of a Commission for the recruitment and Selection of officer for appointment to services and posts in public sector banks and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as following:—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the **Banking Service Commission Act, 1984**.

(2) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

"STATEMENT OF OBJECTS AND REASONS"

While reviewing the then existing arrangements for the recruitment and man-power planning in the public sector banks, the Banking Commission has recommended the establishment of an independent common recruitment agency for all the public sector banks on the lines of the Union Public Service Commission so that objective, rational and impartial selection could be ensured. Government had accepted this recommendation of the Banking Commission. Accordingly, the Banking Service Commission Act, 1975 was enacted by the Parliament to provide for the establishment of a Banking Service Commission.

2. Before the Commission established under the Banking Service Commission Act, 1975 could start functioning, the Act was repealed in 1978. Thereafter, Banking Service Recruitment Boards were established by way of an alternative machinery to effect recruitment of officers and clerks in the public sector banks. The working of the Recruitment Boards for over five years has shown deficiencies, such as duplication of efforts and wastage of resources on the recruitment of officers from different regions. It was, therefore, considered necessary to make some modifications in the existing process for the recruitment of officers in the public sector banks so that there is economy in expenditure, speedier conduct of recruitment and judicious placement and improved quality of candidates. The Act seeks to give effect to this idea for providing for the establishment of a body corporate to be called "The Banking Service Commission".

3. The proposed Commission will be responsible for the recruitment of officers in all the 28 public sector banks by conducting examinations or making selections. 25 per cent of the vacancies in the junior management grade in the general category are to be filled in by recruitment. The Act also seeks to vest in the Commission the power to make appointments on promotion to the posts of Assistant General Managers and above in the public sector banks.

4. The proposed Commission will consist of a Chairman and not more than eight members of whom not less than half shall be persons with experience in, or knowledge of, banking and financial institutions. The expenditure of the Commission is proposed to be met mainly from the fees to be paid by the public sector banks on whose behalf the recruitments are to be made by the Commission. The Act seeks to exempt the Commission from payment of taxes on income, profit and gain."

[Vide Statements of Objects and Reasons printed in the Gazette of India, Extraordinary, Part II, Section 2, No. 30, dated May 7, 1984
Editor.]

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "banking company" has the meaning assigned to it in the Banking Regulation Act, 1949 (10 of 1949);

(b) "Chairman" means the Chairman of the Commission;

(c) "Commission" means the Banking Service Commission established under sub-section (1) of section 3;

(d) "grade", in relation to a public sector bank, means a grade for officers as specified in the rules or, as the case may be, the regulations of the bank;

(e) "junior management grade", in relation to a public sector bank, means the lowest grade of officers in the banks;

(f) "member" means a member of the Commission but does not include the Chairman;

(g) "notification" means a notification published in the Official Gazette;

(h) "officer" means an officer of any grade;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "public sector bank" means—

(i) a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);

(ii) a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

(iii) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1956);

(iv) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(k) "regulation" means a regulation made under this Act;

(l) "Reserve Bank" means the Reserve Bank of India, constituted under the Reserve Bank of India Act, 1934 (2 of 1934);

(m) "Secretary" means the Secretary of the Commission;

(n) "vacancy" includes a newly created post which has not been filled in.

CHAPTER II

Banking Services Commission

3. *Establishment of the Commission.*—(1) With effect from such date as the Central Government may, by notification specify in this behalf, there shall be established for the purposes of this Act a Commission, to be called the Banking Service Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and may by the said name sue and be sued.

(3) The Head Office of the Commission shall be at Delhi or at such other place as the Central Government, may, by notification, specify.

4. *Appointment and terms of office of Chairman and members.*—(1) The Central Government shall, by notification, appoint a person to be the Chairman of the Commission and not more than eight other persons to be members of the Commission :

Provided that at least one member shall be from amongst persons belonging to the Scheduled Castes or the Scheduled Tribes.

(2) The Chairman and members shall be persons who, in the opinion of the Central Government, are men of ability, integrity and standing and have special knowledge of, or practical experience in, financial, economic or business administration or in the administration of Government or in any other matter which would render such persons suitable for appointment as Chairman or member:

Provided that as nearly as may be one-half of the members shall be persons who, on the date of their respective appointments, have had such experience for not less than ten years in a banking company or in any public sector bank or Reserve Bank or in an institution wholly or substantially owned by the Reserve Bank or a public financial institution.

Explanation.—I. For the purposes of this section and of section 5,—

(a) each of the following institutions shall be deemed to be a public financial institution, namely:—

(i) the Industrial Credit and Investment Corporation of India Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956);

(ii) the Industrial Reconstruction Corporation of India Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956);

(iii) the Industrial Finance Corporation of India, established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948);

(iv) the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964);

(v) the Export-Import Bank of India, established under section 3 of the Export-Import Bank of India Act, 1981 (28 of 1981);

(vi) the National Bank for Agriculture and Rural Development, established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(vii) the Life Insurance Corporation of India, established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);

(viii) the Unit Trust of India, established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963);

(ix) any other financial institution which is declared by the Central Government, by notification, to be a public financial institution;

(b) an institution shall be deemed to be substantially owned by the

Reserve Bank if, in the capital of such institution, that Bank has not less than forty per cent, share.

Explanation II—For the purposes of this section and section 17, the expressions “Scheduled Castes” and “Scheduled Tribes” shall have the meanings respectively assigned to them in article 366 of the Constitution.

(3) The Chairman or any member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier :

Provided that—

(a) the Chairman or any member may, by writing under his hand addressed to the Central Government, resign his office ;

(b) the Chairman or any member may be removed from his office in the manner provided by this Act.

(4) The other terms and conditions of service of the Chairman and members shall be such as may be prescribed.

(5) If the office of the Chairman becomes vacant or if the Chairman is unable to discharge his functions owing to absence, illness or any other cause, such member of the Commission as the Central Government may, by order, specify, shall discharge the functions of the Chairman up to the date on which a new Chairman is appointed or, as the case may be, the Chairman resumes his duties.

5. *Prohibition, as to holding offices by Chairman or member on ceasing to be such Chairman or member*—A person who holds office as Chairman or member shall, on his ceasing to hold such office by reason of the expiration of his term or otherwise, be ineligible for re-appointment in the Commission or for employment under the Government of India or of any State or in the Reserve Bank or in any institution wholly or substantially owned by the Reserve Bank or in any public sector bank or any banking company or in a public financial institution :

Provided that a member to whom this section applies, shall be eligible for appointment as Chairman, but shall not be eligible for any other employment.

6. *Removal and suspension of Chairman or the members from office in certain circumstances.*—(1) The Central Government may remove from office the Chairman or any member, who—

(a) is adjudged an insolvent, or

(b) is convicted of an offence involving moral turpitude, or

(c) is, in the opinion of the Central Government, unfit to continue in office by reason of infirmity of mind or body, or

(d) engaged, during the term of office, in any paid employment outside the duties of his office, or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functioning as the Chairman or a member, or

(f) has so abused his position as to render his continuance in office undesirable.

(2) Notwithstanding anything contained in sub-section (1), the Chairman or any member shall not be removed from office on the ground specified in clause (d) or clause (e) or clause (f) of that sub-section unless the matter has been referred to an Inquiry Officer appointed under sub-section (3) and such officer has, after an inquiry, held in accordance with such

procedure as the Central Government may specify in this behalf, reported that the member ought, on such grounds, to be removed.

(3) For the purpose of holding an enquiry under sub-section (2), the Central Government may, by order appoint, as an Inquiry Officer a person who is holding or has held the office of a Judge of the Supreme Court or of any High Court.

(4) The Central Government may suspend from office the Chairman or any member in respect of whom a reference has been made to an Inquiry Officer under sub-section (2), pending such inquiry.

(5) The terms and conditions of service of any Inquiry Officer appointed under sub-section (3) shall be such as the Central Government may, by order, specify.

7. *Power of Commission to constitute committees.*—(1) The Commission may, in such manner and subject to such conditions and restrictions as may be prescribed, constitute one or more committees consisting wholly of its members or partly of its members and partly of other persons and delegate to any committee so constituted, such of the functions and powers of the Commission as may be specified in the rules made by the Central Government :

Provided that the Commission may constitute any committee either with or without, the Chairman as one of the members of such committee.

(2) The sitting fee and travelling allowance payable to persons, other than the Chairman and members for attending any meeting of the committee, shall be such as may be prescribed.

8. *Secretary and other staff of the Commission.*—(1) The Commission may, with the previous sanction of the Central Government, appoint a Secretary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of the Secretary shall be such as may be prescribed.

(3) Subject to such regulations as may be made in this behalf, the Commission may appoint such other employees as it may think necessary for the efficient discharge of its functions under this Act on such terms and conditions as the Commission may, having regard to the terms and conditions of service of the comparable posts in the Central Government, determine with the previous sanction of the Central Government.

9. *Authentication of orders and other instruments of the Commission.*—(1) All orders and instrument issued by the Commission shall be authenticated by the signature of the Secretary or any other employee of the Commission authorized by the Chairman in this behalf.

(2) Order or instruments issued by the Commission and authenticated in accordance with the provisions of sub-section (1) shall be evidence of the matters recorded therein and shall be admissible in evidence notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), or in any other law for the time being in force.

CHAPTER III

Functions of the Commission

10. *Duty of Commission to hold competitive examinations or make selections for appointment to posts in public sector banks.*—It shall be the duty of the

Commission to conduct examinations or to make selections or both for appointments in public sector banks for filling vacancies in—

- (a) post of officers required to be filled by direct recruitment ;
- (b) posts of officers of and above the rank of Assistant General Manager or of its equivalent rank required to be filled by promotion ; and
- (c) such other posts as the Central Government may, by notification specify.

11. Calling for applications and conduct of examinations or selections.—

(1) The Commission shall call for applications from such category of persons and in such manner as may be specified in the regulations and conduct examinations or make selections or both having regard to the requirement of section 17 and the vacancies communicated to it under section 12 :

Provided that such examinations or selections or both shall be made in accordance with the principles specified in the regulations.

(2) The fee payable on an application under sub-section (1) shall be such as may be specified by regulations and such fee shall not exceed eighty rupees.

12. Duty of public sector banks to communicate to the Commission of number of vacancies.—(1) It shall be the duty of every public sector bank to communicate to the Commission—

- (a) twenty-five per cent of the estimated total number of vacancies in the junior management grade in the category.
- (b) all other vacancies in posts of officers required to be filled by direct recruitment.

(c) vacancies in posts of officers of and above the rank of Assistant General Manager or of its equivalent rank required to be filled by promotion,

and such communication shall be sent in respect of all such vacancies which are likely to occur during unexpired portion of the year in which this section comes into force, as soon as may be after such commencement and in respect of all such vacancies are as likely to occur each subsequent year, as soon as may be after the commencement of such year :

Provided that in relation to junior management grade in the general category, the Central Government may, if it is of opinion that it is necessary so to do in the interests of the public sector banks, by notification, raise the percentage of vacancies to be communicated to the Commission to thirty-three and one-third per cent.

(2) Communications of vacancies referred to in sub-section (1) shall be made in such form and in such manner as may be specified in the regulations.

Explanation.—For the purposes of this section, “junior management grade in the general category”, in relation to a public sector bank, means all categories of posts in the junior management grade as specified in the rules or, as the case may be, the regulations of the bank other than such categories of posts as the Central Government may, having regard to the nature of such posts, declare, by notification, to be posts of a technical category.

13. *Cases in which Commission may not be consulted.*—It shall not be necessary to consult the Commission in regard to the selection of a person—

(a) for appointment to a post in the junior management grade on compassionate grounds or other special grounds (in pursuance of the scheme framed by a public sector bank in consultation with the Commission and with the previous sanction of the Central Government);

(b) if the person appointed is not likely to hold the post for a period of more than one year, and it is necessary in the interests of the public sector bank to make the appointment immediately and reference to the Commission will cause undue delay;

Provided that—

(i) such appointment is made in the manner specified by the Commission by regulations and is reported to the Commission as soon as it is made;

(ii) if the appointment continues beyond a period of six months, a fresh estimate as to the period for which the person appointed is likely to hold the post shall be made and reported to the Commission; and

(iii) if such estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment, the Commission shall immediately be consulted in regard to the filling of the post.

14. *Duty of Commission to make recommendation.*—It shall be the duty of the Commission to make, on the basis of the results of examinations conducted or on the basis of the selection made by it or, as the case may be, on the basis of both, recommendations to each public sector bank in such manner as may be specified by regulations for appointments to fill the vacancies communicated to it by such bank under section 12.

15. *Communicated vacancies to be filled only on the recommendation of the Commission.*—(1) Notwithstanding anything to the contrary contained in any award, settlement or agreement, or in any judgment, decree or order of any court or tribunal or other authority or in any other law in force for the time being, appointments to all the vacancies required to be communicated to the Commission under section 12 shall, on or from such date as the Commission may notify in respect of each public sector bank, be made by such public sector bank only on the recommendation of the Commission, except where consultation with the Commission is not necessary under this Act.

(2) If, in any year, the Commission is unable to make recommendation for appointment to all the vacancies communicated to it by a public sector bank under section 12, or if the public sector bank is unable, in any year, to make appointments on the basis of recommendations made by the Commission, the vacancies may be carried forward to the subsequent year, to be filled in the said manner:

Provided that the public sector bank may, in consultation with the Commission, fill such vacancies temporarily in such manner and for such period as the Commission may, by regulations, specify.

16. *Power of Central Government to entrust other advisory functions to the Commission.*—The Commission shall discharge such functions of an advisory nature as the Central Government may, by notification, entrust to it.

17. *Reservation of posts for candidates belonging to Scheduled Castes and Schedule Tribes and other categories of persons.*—The Central Government may, by order, direct that in relation to every public sector bank, reservations in favour of the Scheduled Castes, Scheduled Tribes and other categories of persons shall be made in such manner and to such extent as it may specify :

Provided that in giving any direction as aforesaid, the Central Government shall have due regard to the reservation of posts made for the Scheduled Castes, Scheduled Tribes and other categories of persons in relation to recruitment to the services of the Government and to the general need, and special requirements, of such public sector bank.

18. *Fund of the Commission.*—(1) The Commission shall have its own Fund and all the receipts of the Commission shall be credited to the and all payments by the Commission shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in such bank or invested in such manner as the Commission may, subject to any general or special order made by the Central Government in this behalf, decide.

(3) The Commission may spend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund of the Commission.

19. *Payment to the Commission.*—(1) The Central Government may subject to any rules that may be made in the behalf, direct every public sector bank to pay to the Commission such fee as it may determine and the aggregate amount of the fee so determined shall not exceed the expenses incurred by the Commission.

(2) The aggregate amount of fee payable under sub-section (1) shall be apportioned by the Central Government between different public sector banks, and in making such apportionment in relation to a public sector bank the Central Government shall have due regard to the demand and time liabilities of that public sector bank.

(3) For the purpose of meeting the expenditure of the Commission, the Central Government may, by general or special order, direct the payment by every public sector bank of an advance of such amount as it may specify and the advance so made shall be appropriated or adjusted in such manner as may be prescribed.

Explanation.—The expressions “demand liabilities” and “time liabilities” shall have the meanings respectively assigned to them in the Banking Regulation Act, 1949 (10 of 1949).

20. *Budget of the Commission.*—The Commission shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the year next ensuing showing the estimated receipts and expenditure, and submit the same to the Central Government for approval.

21. *Accounts and audit.*—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts for such period, in such form, at such time and in such manner as may be prescribed.

(2) The accounts of the Commission shall be audited by a person who is qualified to act as an auditor of a company under section 226 of the Companies Act, 1956 (1 of 1956), and the auditor shall receive such remuneration as may be prescribed.

neration as the Commission may, in consultation with the Central Government fix.

(3) In conducting the audit, the auditor shall have the same rights and duties as are possessed by an auditor of a company as if the Commission were a company within the meaning of the Companies Act, 1956 (1 of 1956).

22. *Annual report.*—The Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER IV

Miscellaneous

23. *Obligation as to secrecy.*—The Chairman and members and the Secretary or other employees of the Commission, and every member of any committee constituted under sub-section (1) of section 7, shall maintain strictest secrecy regarding the affairs of the Commission and shall not divulge, directly or indirectly, any information of a confidential nature to a member of the public unless compelled to do so by any judicial discharge or other authority or unless instructed to do so by a superior officer in the of his duties.

24. *Chairman, members etc., to be public servants*—The Chairman and members and the Secretary or other employees of the Commission, and every member of any committee constituted under sub-section (1) of section 7 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

25. *Certain defects not to invalidate acts or proceedings.*—(1) All acts done by the Chairman and members and members of any committee constituted under sub-section (1) of section 7, acting in good faith, shall notwithstanding any defect in their appointment or procedure, be valid.

(2) No act or proceeding of the Commission or of any committee thereof shall be invalid merely on the ground of the existence of any vacancy therein or defect in the constitution of the Commission or the committee, as the case may be.

26. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Central Government or the Commission or any committee constituted under sub-section (1) of section 7 or any member of the Commission or of such committee or the Chairman or Secretary or other employee of the Commission for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

27. *Commission not liable to be taxed.*—Notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), or any other enactment for the time being in force relating to income-tax, surtax or any other tax on income, profit or gains, the Commission shall not be liable to pay any tax or surtax in respect of—

(a) any income, profits or gains accruing or arising out of the Fund of the Commission or any amount received in that Fund; and

(b) any income, profits or gains derived, or any amount received, by the Commission.

28. *Delegation of powers.*—The Commission may, by general or special order delegate to the Chairman, any member, Secretary or any employee of the Commission, subject to such conditions or limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

29. *Amendment of Act 14 of 1947.*—For the purpose of the Industrial Disputes Act, 1947, the Central Government shall be deemed to be the appropriate Government in relation to an industrial disputes concerning the Commission and the definition of "appropriate Government" in that Act shall have effect accordingly.

30. *Returns and information.*—(1) The Commission shall furnish to the Central Government such returns or other information with respect to its properties or activities as the Central Government may, from time to time, require.

(2) The Commission may, for the purpose of enabling it to discharge its functions under the Act, call upon any public sector bank to give such statements or furnish such particulars as the Commission may deem fit and every such bank shall comply with the same.

31. *Power to make rules.*—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the terms and conditions of service of the Chairman and members ;

(b) the sitting fee and travelling allowance payable to persons, other than the Chairman and members, for attending any meeting of the committee, under sub-section (2) of section 7 ;

(c) the terms and conditions of service of the Secretary under sub-section (2) of section 8 ;

(d) the category of person for whom any vacancy or percentage of vacancies in a public sector bank may be reserved by the Central Government.

(e) the procedure for determination of the fee to be paid by every public sector bank to the Commission under section 19 ;

(f) the form in which and the time within which the Commission shall prepare and submit its budget to the Central Government under section 20 ;

(g) the period for which, the form and manner in which and the time within which the Commission shall prepare its annual statement of account under sub-section (1) of sections 21 ;

(h) the form and manner in which and the date by which the Commission shall prepare an annual report giving a full account of its activities during the previous year and submitting the same to Central Government under section 22 ;

(i) any other matter which is to be, or may be, prescribed.

32. *Power to make regulations.*—(1) The Commission may, with the previous approval of the Central Government, by notification, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder, to provide for all matters for which provision is necessary

or expedient for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- (a) the matters referred to in sub-section (3) of section 8 ;
- (b) the manner in which, and the category of persons from whom applications may be called for appearing at examinations, selections or tests held by the Commission under sub-section (1) of section 11 ;
- (c) the principles in accordance with which candidates shall be selected for different posts under the proviso to sub-section (1) of section 11 ;
- (d) the fee payable by candidates intending to appear at examinations, selections or tests conducted by the Commission under sub-section (2) of section 11 ;
- (e) the form and manner in which communication of vacancies under sub-section (2) of section 12 shall be made ;
- (f) the manner in which appointments may be made to fill any vacancy without consulting the Commission ;
- (g) the manner in which and period for which appointments may be made to fill vacancies in relation to which the Commission is unable to make a recommendation ;
- (h) the number of places and time at which the Commission shall conduct examinations or tests for recruitment to different posts ;
- (i) generally for the efficient conduct of the affairs of the Commission.

33. *Rules and regulation to be laid before Parliament.*—Every rule, and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

34. *Power to remove difficulty.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything, not inconsistent with such provisions, for the purpose of removing the difficulty :

Provided that no such order shall be made after the expiration of three years from the date on which this Act receives the assent of the President.

THE NATIONAL SECURITY (SECOND AMENDMENT) ACT, 1984.

The following Act of the Parliament received the assent of the President on the 31st August, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 74 dated September 1, 1984

INDIAN PARLIAMENT ACT NO. 60 OF 1984.

An Act further to amend the National Security Act, 1980

Be it enacted by Parliament in the Thirty-fifth year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **National Security (Second Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 21st day of June, 1984

2. *Insertion of new section 5A.*—In the National Security Act, 1980 (65 of 1980) (hereinafter referred to as the principal Act), after section 5, the following section shall be inserted namely :—

“5A. *Grounds of detention severable.*—Where a person has been detained in pursuance of an order of detention (Whether made before or after the commencement of the National Security (Second Amendment) Act, 1984) under Section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) Vague,

(ii) non existent.

(iii) not relevant.

(iv) not connected or not proximately connected with such person,

or

(v) invalid for any other reason whatsoever,

it is not therefore possible to hold that the Government or Officer making such order would have been satisfied as provided in section 3 with reference to the remaining grounds and made the order of detention.

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds’.

3. *Amendment of section 14.*—In section 14 of the principal Act, for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) The expiry or revocation of a detention order (hereafter in this sub-section referred to as the earlier detention order) shall not (whether such earlier detention order has been made before or after the commencement of the National Security (Second Amendment) Act, 1984) bar the making of another detention order (hereafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person :

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the

expiry of a period of twelve months from the date of detention under the earlier detention order."

4. *Amendment of section 14A.*—In the principal Act as applicable to the State of Punjab and the Union Territory of Chandigarh, in section 14A in sub-section (2),—

(i) in the opening portion for the words and figures "sections 10 to 13" the words and figures "sections 10 to 14" shall be substituted ;

(ii) after clause (d) the following clause shall be inserted, namely:—

"(e) in section 14, in the proviso to sub-section (2) for the words "two months" the words "two years" shall be substituted ;

5. *Repeal and saving.*—(1) The National Security (Second Amendment) Ordinance, 1984 (6 of 1984), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE LAND ACQUISITION (AMENDMENT) ACT, 1984

The following Act of the Parliament received the assent of the President on the 24th September, 1984 and was published in the *Gazette of India (Ext)*, Part II, Section 1, No. 60, dated September 24, 1984.

INDIAN PARLIAMENT ACT NO. 68 OF 1984

[24th September, 1984]

An Act further to amend the Land Acquisition Act, 1894.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the Land Acquisition (Amendment) Act, 1984.

2. *Amendment of section 1.*—In sub-section (2) of section 1 of the Land Acquisition Act, 1894 (1 of 1894) (hereinafter referred to as the principal Act), for the words, figures and letters "the territories which, immediately before the 1st November, 1956, were comprised in Part B States ; and", the words "the State of Jammu and Kashmir", shall be substituted.

3. *Amendment of section 3.*—In section 3 of the principal Act,—

(a) after clause (a), the following clause shall be inserted, namely :—

"(aa) the expression "local authority" includes a town planning authority (by whatever name called) set up under any law for the time being in force ;

(b) after clause (c), the following clause shall be inserted, namely :—

"(cc) the expression "corporation owned or controlled by the State" means any body corporate established by or under a Central, Provincial or State Act, and includes a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one per centum of the paid-up share capital is held by

the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;”;

(c) for clause (e), the following clause shall be substituted, namely :—

“(e) the expression “Company” means—

(i) a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), other than a Government company referred to in clause (cc) ;

(ii) a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc) ;;

(iii) a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc) ;;

(d) for clause (f), the following clause shall be substituted, namely :—

“(f) the expression “public purpose” includes—

(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites ;

(ii) the provision of land for town or rural planning ;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned ;

(iv) the provision of land for a corporation owned or controlled by the State ;

(v) the provision of land for carrying out residential purpose to the poor or landless or to persons residing in areas affected by natural calamities to, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State ;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any corresponding law for the time being in force in a State or a co-operative society within the meaning of any law for the time being in force in any State ;

(vii) the provision of land for any other scheme of development sponsored by Government or, with the prior approval of the appropriate Government, by a local authority ;

(viii) the provision of any premises or building for locating a public office,

but does not include acquisition of land for Companies;”;

(e) in clause (g), in the proviso, in clause (iii), for the words and figures “Chapter XXXI of the Code of Civil Procedure (14 of 1882)”, the words and figures “Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908)” shall be substituted.

4. *Amendment of section 4.*—In sub-section (1) of section 4 of the principal Act,—

(a) after the words “any public purpose”, the words “or for a Company” shall be inserted.

(b) after the words “Official Gazette”, the words “and in two daily newspapers circulating in that locality of which at least one shall be in the regional language” shall be inserted :

(c) after the words “in the said locality”, the brackets and words “(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)” shall be inserted.

5. *Amendment of section 5A.*—In section 5A of the principal Act,—

(a) in sub-section (1), for the words “within thirty days after the issue of the notification”, the words “within thirty days from the date of the publication of the notification” shall be substituted ;

(b) in sub-section (2), for the words “either in person”, the words “in person or by any person authorised by him in this behalf” shall be substituted.

6. *Amendment of section 6.*—In section 6 of the principal Act,—

(1) for the first proviso, the following proviso shall be substituted, namely :—

“Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),—

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification ; or

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification ;”

(2) the following Explanations shall be inserted at the end, namely :—

Explanation. 1.—In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2.—Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues.”;

(b) in sub-section (2), for the words “and shall state”, the words and brackets “and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state” shall be substituted.

7. *Amendment of section 9.*—In section 9 of the principal Act, in sub-section (4), for the words and figures “registered under Part III of the Indian Post Office Act, 1866 (14 of 1866)”, the words and figures “registered under

sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)" shall be substituted.

8. *Amendment of section 11.*—Section 11 of the principal Act shall be re-numbered as sub-section (1) of that section, and;—

(a) in sub-section (1) as so re-numbered, the following provisos shall be inserted at the end, namely:—

"Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf:

Provided further that it shall be competent for the appropriate Government to direct that, the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf";

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

(2) Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under sub-section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

(4) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), no agreement made under sub-section (2) shall be liable to registration under that Act."

9. *Insertion of new section 11A.*—After section 11 of the principal Act, the following section shall be inserted, namely:—

"11A. *Period within which an award shall be made.*—The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.—In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded."

10. *Insertion of new section 13A.*—After section 13 of the principal Act, the following section shall be inserted, namely:—

"13A. *Correction of clerical errors, etc.*—(1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required under section 18 to make a reference to the

Court, before the making of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority :

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue."

11. *Amendment of section 14.*—In section 14 of the principal Act, for the words "Code of Civil Procedure (14 of 1982)", the words and figures "Code of Civil Procedure, 1908 (5 of 1908)", shall be substituted.

12. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely :—

"15A. *Power to call for records, etc.*—The appropriate Government may at any time before the award is made by the Collector under section 11 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any finding or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit :

Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard."

13. *Amendment of section 17.*—In section 17 of the principal Act,—

(a) in sub-section (1), for the words "take possession of any waste or arable land needed for public purposes or for a Company", the words "take possession of any land needed for a public purpose" shall be substituted ;

(b) in sub-section (2), after the words "access to any such station", the words "or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity," shall be inserted ;

(c) after sub-section (3), the following sub-sections shall be inserted, namely :—

"(3A) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall, without prejudice to the provisions of sub-section (3),—

(a) tender payment of eighty per centum of the compensation for such land as estimated by him to the persons interested entitled thereto. and

(b) pay it to them, unless prevented by some one or more of the contingencies mentioned in section 31, sub-section (2), and where the Collector is so prevented, the provisions of section 31, sub-

section (2), (except the second proviso thereto), shall apply as they apply to the payment of compensation under that section.

(3B) The amount paid or deposited under sub-section (3A), shall be taken into account for determining the amount of compensation required to be tendered under section 31, and where the amount so paid or deposited exceeds the compensation awarded by the Collector under section 11, the excess may, unless refunded within three months from the date of the Collector's award, be recovered as an arrear of land revenue.”;

(d) in sub-section (4), for the words “after the publication of the notification”, the words “after the date of the publication of the notification” shall be substituted.

14. *Amendment of section 19.*—In section 19 of the principal Act, in sub-section (1),—

(a) in clause (c), the words “and” occurring at the end shall be omitted;

(b) after clause (c), the following clause shall be inserted, namely:—
“(cc) the amount paid or deposited under sub-section (3A) of section 17; and”.

15. *Amendment of section 23.*—In section 23 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier;

Explanation.—In computing the period referred to in this sub-section any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.”;

(b) in sub-section (2), for the words “fifteen per centum”, the words “thirty per centum” shall be substituted.

16. *Amendment of section 24.*—In section 24 of the principal Act,—

(a) in clause sixthly, the word “or” occurring at the end shall be omitted;

(b) in clause seventhly, the word “or” shall be inserted at the end, and after the clause as so amended, the following clause shall be inserted, namely:—

“eighthly, any increase to the value of the land on account of its being put to any use which is forbidden by law or opposed to public policy.”

17. *Substitution of new section for section 25.*—For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. *Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector.*—The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.”

18. *Amendment of section 28.*—In section 28 of the principal Act,

(a) for the words "six per centum", the words "nine per centum" shall be substituted;

(b) the following proviso shall be inserted at the end, namely :—

"Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.

19 *Insertion of new section 28A.*—In Part III of the principal Act, after section 28, the following section shall be inserted, namely :—

"28A. *Re-determination of the amount of compensation on the basis of the award of the Court.*—(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court :

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector, for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference under section 18."

20. *Amendment of section 34.*—In section 34 of the principal Act,—

(a) for the words "six per centum" the words "nine per centum" shall be substituted.

(b) the following proviso shall be inserted at the end namely :—

"Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry."

21. *Omission of section 38.*—Section 38 of the principal Act shall be omitted.

22. *Amendment of section 38A.*—In section 38A of the principal Act, for the words, figures and letter “sections 5A, 6, 7, 17 and 53”, the words figures and letter “sections 4, 5A, 6, 7 and 50” shall be substituted.

23. *Amendment of section 39.*—In section 39 of the principal Act,—

(a) for the words, figures and brackets “sections 6 to 37 (both inclusive)”, the words, figures and brackets “sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive)” shall be substituted ;

(b) after the words “for any Company”, the words “under this Part” shall be inserted.

24. *Amendment of section 40.*—In section 40 of the principal Act, in sub-section (3), for the words “Code of Civil Procedure (14 of 1882)”, the words and figures “Code of Civil Procedure, 1908 (5 of 1908)” shall be substituted.

25. *Amendment of section 45.*—In sub-section (3) of section 45 of the principal Act, in the proviso, for the words and figures “registered under Part III of the Indian Post Office Act, 1866 (14 of 1866)”, the words and figures “registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)” shall be substituted.

26. *Amendment of section 46.*—In section 46 of the principal Act, for the words “fifty rupees”, the words “five hundred rupees” shall be substituted:

27. *Insertion of new section 51A.*—After section 51 of the principal Act, the following section shall be inserted, namely :—

“51A. *Acceptance of certified copy as evidence.*—In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 (16 of 1908), including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.”

28. *Amendment of section 53.*—In section 53 of the principal Act, for the words “Code of Civil Procedure (14 of 1882)”, the words and figures “Code of Civil Procedure, 1908 (5 of 1908)”, shall be substituted.

29. *Amendment of section 55.*—In sub-section (1) of section 55 of the principal Act,—

(a) in the second proviso, for the words “before the expiry of the session in which it is so laid or the successive sessions aforesaid”, the words “before the expiry of the session immediately following the session or the successive sessions aforesaid” shall be substituted ;

(b) after the second proviso, the following proviso shall be inserted, namely :—

“Provided also that every such rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.”

30. *Transitional provisions.*—(1) The provisions of sub-section (1A) of section 23 of the principal Act, as inserted by Clause (a) of section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,—

(a) every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Act, 1982, in the House of

the people], in which no award has been made by the Collector before that date ;

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the commencement of this Act.

(2) The provisions of sub-section (2) of section 23 and section 28 of the principal Act, as amended by clause (b) of section 15 and section 18 of this Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the principal Act after the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Act, 1982, in the House of the People] and before the commencement of this Act.

(3) The provisions of section 34 of the principal Act, as amended by section 20 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,

(a) every case in which possession of any land acquired under the principal Act had been taken before the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Act, 1982, in the House of the People], and the amount of compensation for such acquisition had not been paid or deposited under section 31 of the principal Act until such date, with effect on and from that date ; and

(b) every case in which such possession had been taken on or after that date but before the commencement of this Act without the amount of compensation having been paid or deposited under the said section 31, with effect on and from the date of taking such possession.

THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT, 1984.

The following Act of the Parliament received the assent of the President on the 18th August, 1984 was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 65, dated August 21, 1984.

INDIAN PARLIAMENT ACT NO. 51 OF 1984.

[18th August, 1984].

An Act to consolidate and amend the law relating to co-operative societies with objects not confined to one State and serving the interests of members in more than one State.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

CHAPTER I Preliminary

1. *Short title extent and commencement.*—(1) This Act may be called the Multi-State Co-operative Societies Act, 1984.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

“STATEMENT OF OBJECTS AND REASONS

Co-operative societies with objects not confined to one State and serving the interests of members of more than one State are at present govern-

ed by the provisions of the Multi-unit Co-operative Societies Act, 1942—A Central Act. This is only an enabling legislation facilitating the incorporation, regulation and winding up of multi-unit (State) co-operative societies under the provisions of the Co-operative Societies Act of the State where the principal place of business of any such societies is located. As a result, different multi-unit co-operative societies are governed by different co-operative laws in the country.

2. Since 1942, far-reaching changes have occurred in the organisational structure, overall size and operations, etc., of multi-unit co-operative societies. A number of national level co-operative societies, and federations, promoted by co-operatives in the country have come up with the assistance of the Central and State Governments. These federations and societies are engaged in diverse spheres of co-operative activity. The provisions in the co-operative laws in different States governing these multi-State societies tend to vary from one another. Thus the lack of uniformity and the inadequacies in the existing arrangements have rendered it necessary to replace the existing legislative frame work of such co-operatives by a common comprehensive Central legislation and providing for a Central Authority to be responsible for their promotion, registration and supervision. The present Multi-State Co-operative Societies Act, framed in the light of the recommendations of the Expert Committee on Multi-State Co-operative Societies Legislation and in consultation with the State Governments, seeks to achieve this objective and is intended to facilitate the further development and more effective functioning of multi-State co-operative societies.

3. The proposed law will extend to the whole of India including Jammu and Kashmir. The present Multi-unit Co-operative Societies Act, 1942 does not extend to Jammu and Kashmir.

4. The scope of the Act is 'divided' into several parts on the usual lines of co-operative legislation in the States providing, of, among other things, for the appointment of Central Registrar, registration of multi-State co-operative societies, members' rights and liabilities, management of co-operatives, privileges of multi-State co-operatives, their properties and funds, audit, inquiry, inspection, settlement of disputes, winding up and cancellation of registration of multi-State co-operative societies, etc.

5. Some of the provisions contained in the State co-operative laws and which have been 'irritants' to non-official leadership of the co-operative movement have not been included in the Act. The Act does not contain any provision for compulsory amendment of bye-laws or for compulsory amalgamation or division of societies. Nor does the proposed Act contemplate any powers to Government nominees to veto the resolution of board of management of societies. The objective is that while the autonomy of the co-operative should be supported and respected, the administrative arrangements for inspection, monitoring and audit of these societies are strengthened to ensure that the societies function with responsibility to their constituents and the community.

[Vide Statement of Objects and Reasons published in the Gazette of India (Ext.), Part II, Section 2, No. 31, dated May 8, 1984. *Editor.*]

2. *Application.*—This Act shall apply to—

(a) all co-operative societies, with objects not confined to one State, which were incorporated before the commencement of this Act,

(i) under the Co-operative Societies Act, 1912 (2 of 1912), or
(ii) under any other law relating to co-operative societies in force in any State or in pursuance of the Multi-unit Co-operative Societies Act, 1942 (6 of 1942).

and the registration of which has not been cancelled before such commencement ; and

(b) all multi-State co-operative societies.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “board” means the board of directors or the governing body of a multi-State co-operative society by whatever name called, to which the direction and control of management of the affairs of the society is entrusted ;

(b) “bye-laws” means the bye-laws for the time being in force which have been duly registered under this Act and includes amendments thereto which have been duly registered under this Act ;

(c) “Central Registrar” means the Central Registrar of Co-operative Societies appointed under sub-section (1) of section 4 and includes any officer empowered to exercise the powers of the Central Registrar under sub-section (2) of that section ;

(d) “Chief Executive” means a Chief Executive of a multi-State co-operative society appointed under section 44 ;

(e) “co-operative bank” means a multi-State co-operative society which undertakes banking business ;

(f) “co-operative principles” means the co-operative principles specified in the First Schedule ;

(g) “co-operative society” means a society registered or deemed to be registered under any law relating to the co-operative societies for the time being in force in any State.

(h) “co-operative year”, in relation to any multi-State co-operative society or class of such societies, means the year ending on the 30th day of June and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, the year ending on such day ;

(i) “Deposit Insurance Corporation” means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961 (47 of 1961) ;

(j) “member” means a person joining in the application for the registration of a multi-State co-operative society and includes a person admitted to membership after such registration in accordance with the provisions of this Act, the rules and the bye-laws ;

(k) “multi-State co-operative society” means a society registered or deemed to be registered under this Act and includes a national co-operative society ;

(l) “multi-State co-operative society with limited liability” means a society having the liability of its members limited by its bye-laws to the amount, if any, unpaid on the shares respectively held by them or to such amount as they may, respectively, thereby undertake to contribute to the assets of the society, in the event of its being wound up ;

(m) “national co-operative society” means a multi-State co-operative society specified in the Second Schedule ;

(n) "notification" means a notification published in the Official Gazette ;

(o) "officer" means a president, vice-president, chairman, vice-chairman, managing director, secretary, manager, member of a board, treasurer, liquidator, an administrator appointed under section 48 and includes any other person empowered under this Act or the rules or the bye-laws to give directions in regard to the business of a multi-State co-operative society ;

(p) "prescribed" means prescribed by rules ;

(q) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934) ;

(r) "rules" means the rules made under this Act.

CHAPTER II

Central Registrar and Registration of Societies

4. *Central Registrar.*—(1) The Central Government may appoint a person to be the Central Registrar of Co-operative Societies and may appoint such other persons as it may think fit to assist the Central Registrar.

(2) The Central Government may, by notification, direct that any power exercisable by the Central Registrar under this Act (other than the power of registration of a multi-State co-operative society) shall in relation to such society, and such matters as may be specified in the notification be exercisable also by any other officer of the Central Government or of a State Government as may be authorised by the Central Government subject to such conditions as may be specified therein ;

Provided that no officer of a State Government shall be empowered to exercise such power in relation to a national co-operative society :

Provided further that no officer of a State Government below the rank of the Registrar of Co-operative Societies shall be empowered to exercise any power exercisable by the Central Registrar under section 87.

5. *Multi-State co-operative societies which may be registered.*—(1) No multi-State co-operative society shall be registered under this Act, unless the main objects of the society are to serve the interests of members in more than one State.

(2) Subjects to the provisions of sub-section (1), a multi-State co-operative society, which has as its objects the promotion of the economic and social betterment of its members through mutual aid in accordance with the co-operative principles or a multi-State co-operative society established with the object of facilitating the operations of other such societies or of co-operative societies or of both may be registered under this Act.

(3) The word "Limited" or its equivalent in any Indian language shall be suffixed to the name of every multi-State co-operative society registered under this Act with limited liability.

6. *Application for registration.*—(1) For the purposes of registration of a multi-State co-operative society under the Act, an application shall be made to the Central Registrar in such form and with such particulars as may be prescribed.

(2) The application shall be signed—

(a) in the case of multi-State co-operative society of which all the members are individuals, by at least fifty persons from each of the States concerned ;

(b) in the case of a multi-State co-operative society of which the members are co-operative societies, by duly authorised representatives on behalf of at least two such societies as are not registered in the same State; and

(c) in the case of a multi-State co-operative society of which another multi-State co-operative society and other co-operative societies are members, by duly authorised representatives of each of such societies :

Provided that not less than two of the co-operative societies referred to in clause (b) or clause (c), as the case may be, shall be such as are not registered in the same State.

(3) The application shall be accompanied by four copies of the proposed bye-laws of the multi-State co-operative society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Central Registrar may require.

7. *Registration.*—(1) If the Central Registrar is satisfied—

(a) that the application complies with the provisions of this Act and the rules ;

(b) that the proposed multi-State co-operative society satisfies the basic criterion that its objects are to serve the interests of members in more than one State ;

(c) that there is no other multi-State co-operative society having similar area of operation and identical objects ;

(d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules ; and

(e) that the proposed multi-State co-operative society has reasonable prospects of becoming a viable unit, he may register the multi-State co-operative society and its bye-laws.

(2) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate the order of refusal together with the reasons therefore, to such number of the applicants and in such manner as may be prescribed.

(3) The application for registration shall be disposed of by the Central Registrar within a period of six months from the date of receipt thereof by him :

Provided that if the Central Registrar is unable to dispose of the application within the period aforesaid, he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to dispose of such application.

8. *Registration certificate.*—Where a multi-State co-operative society is registered under this Act, the Central Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the society therein mentioned is duly registered under this Act, unless it is proved that the registration of the society has been cancelled.

9. *Amendment of bye-laws of a multi-State co-operative society.*—(1)

No. amendment of any bye-laws of a multi-State co-operative society shall be valid, unless such amendment has been registered under this Act.

(2) Every proposal for such amendment shall be forwarded to the Central Registrar and if the Central Registrar is satisfied that the proposed amendment—

- (a) is not contrary to the provisions of this Act or of the rules ;
- (b) does not conflict with co-operative principles ; and
- (c) will promote the economic interests of the members of the multi-State co-operative society,

he may register the amendment within a period of six months from the date of receipt thereof by him :

Provided that if the Central Registrar is unable to register the amendment within the period aforesaid he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to register the amendment.

(3) The Central Registrar shall forward to the multi-State co-operative society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Central Registrar refuses to register an amendment of the bye-laws of a multi-State co-operative society, he shall communicate the order of refusal together with the reasons therefor to the Chief Executive of the society in the manner prescribed within seven days from the date of such refusal.

10. *When amendment of bye-laws comes into force.*—An amendment of the bye-laws of multi-State co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

11. *Change of name.*—(1) A multi-State co-operative society may, by an amendment of its bye-laws, change its name but such change shall not affect any right or obligation of the multi-State co-operative society or of any of its members, or past members, and any legal proceedings which might have been continued or commenced by or against the multi-State co-operative society by its former name may be continued or commenced by or against its new name.

(2) Where a multi-State co-operative society changes its name, the Central Registrar shall enter the new name on the register of multi-State co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

12. *Change of address.*—Every multi-State co-operative society shall have a principal place of business and an address registered in the manner prescribed to which all notices and communications may be sent and any change in the principal place of business of multi-State co-operative society shall be made with the previous approval of the Central Registrar.

13. *Liability.*—(1) No multi-State co-operative society with unlimited liability shall be registered after the commencement of this Act :

Provided that where a multi-unit co-operative society with unlimited liability was functioning before the commencement of this Act, such a

society shall exercise the option within a period of one year from such commencement either to continue to function as such or to convert itself into a multi-State co-operative society with limited liability by following the procedure specified in sub-sections (2) to (4).

(2) Subject to the provisions of this Act and the rules, a multi-unit co-operative society may, by an amendment of its bye-laws, change the extent of its liability.

(3) When a multi-unit co-operative society has passed a resolution to change the extent of its liability, it shall give notice thereof in writing to all its members and creditors, and, notwithstanding anything contained in the bye-laws or contract to the contrary, any member or creditor shall during the period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(4) Any member or creditor who does not exercise his option within the period specified in sub-section (3) shall be deemed to have assented to the change.

(5) An amendment of a bye-law of a multi-unit co-operative society changing the extent of its liability shall not be registered or shall not take effect until either—

(a) the assent thereto of all members and creditors has been obtained ; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (3) within the period specified therein have been met in full or otherwise specified.

14. Amalgamation or transfer of assets and liabilities, or division of multi-State Co-operative Societies.—(1) A multi-State co-operative society may, with the prior consultation of the Central Registrar and by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of the society held for the purpose,—

(a) transfer its assets and liabilities in whole or in part to any other multi-State co-operative society or co-operative society ;

(b) divide itself into two or more multi-State co-operative societies ;

(c) divide itself into two or more co-operative societies.

(2) Any two or more multi-State co-operative societies may, with the prior consultation of the Central Registrar and by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of each such society, amalgamate themselves and form a new multi-State co-operative society.

(3) The resolution of a multi-State co-operative society under sub-section (1) or sub-section (2), shall contain all particulars of the transfer or division or amalgamation, as the case may be :

Provided that in the case of co-operative bank, the Central Registrar shall not accord approval to any such resolution without the previous sanction in writing of the Reserve Bank.

(4) When a multi-State co-operative society has passed a resolution under sub-section (1) or sub-section (2), it shall give notice thereof in writing to all the members and creditors and, notwithstanding anything contained in the bye-laws or contract to the contrary, any member or

creditor, shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) (a) A resolution passed by a multi-State co-operative society under this section shall not take effect until the assent thereto of all the members and creditors has been obtained.

(b) The multi-State co-operative society shall make arrangements for meeting in full or otherwise satisfying all claims of the members and creditors who exercise the option within the period specified in sub-section (4).

(7) On receipt of an application for the registration of new societies formed by division in accordance with the resolution passed under sub-section (1) or of a new society formed by amalgamation in accordance with the resolution passed under sub-section (2), the Central Registrar on being satisfied that the resolution has become effective under sub-section (6) shall, unless for reasons to be recorded in writing he thinks fit to refuse so to do, register the new societies or society, as the case may be, and the bye-laws thereof.

(8) On the issue of an order under sub-section (7), the provisions of section 17 shall, so far as may be, apply to the multi-State co-operative society so divided or the multi-State co-operative societies so amalgamated.

(9) Where a resolution passed by a multi-State co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any other law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

15. Central Registrar to prepare scheme of amalgamation or reorganisation of co-operative bank in certain cases.—When an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 (10 of 1949), in respect of a co-operative bank, the Central Registrar, with the previous approval of the Reserve Bank in writing may, during the period of moratorium, prepare a scheme—

(a) for the amalgamation of the co-operative bank with any other co-operative bank; or

(b) for the reorganisation of the co-operative bank.

16. Liability of a co-operative bank to the Deposit Insurance and Credit Guarantee Corporation.—Notwithstanding anything contained in section 14 or any other provision of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is amalgamated or recognised and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated, or the new co-operative bank formed after such amalgamation, or, as the case may be, the insured bank or transferee bank shall be under an obligation to repay to the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

17. *Cancellation of registration certificate of multi-State co-operative societies in certain cases.*—(1) Where the whole of the assets and liabilities of a multi-State co-operative society are transferred to another multi-State co-operative society or to a co-operative society in accordance with the provisions of section 14, the registration of the first-mentioned multi-State co-operative society shall stand cancelled and the society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more multi-State co-operative societies are amalgamated into a new multi-State co-operative society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each of the amalgamating societies shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a multi-State co-operative society divides itself into two or more multi-State co-operative societies or two or more co-operative societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(4) The amalgamation or division of multi-State co-operative societies shall not in any manner in whatsoever affect any right or obligation of the resulting multi-State co-operative society or societies or render defective any legal proceedings by or against the multi-State co-operative society or societies, and any legal proceedings that might have been continued or commenced by or against the multi-State co-operative society or societies, as the case may be, before the amalgamation or division may be continued or commenced by or against the resulting multi-State co-operative society or societies.

18. *Conversion of co-operative society into multi-State co-operative society.*—(1) A co-operative society may, by an amendment of its bye-laws, extend its jurisdiction and convert itself into a multi-State co-operative society :

Provided that no such amendment of bye-laws of a co-operative society shall be valid unless it has been registered by the Central Registrar.

(2) (a) Every proposal for such amendment shall be forwarded to the Central Registrar.

(b) If the Central Registrar, after consulting the Registrars of Co-operative Societies of the States concerned, has satisfied himself that such amendment fulfils the requirement of sub-section (2) of section 9, he may register the amendment within a period of six months from the date of receipt thereof by him :

Provided that if the Central Registrar is unable to register the amendment within the period aforesaid, he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to register the amendment.

(3) The Central Registrar shall forward to the co-operative society a copy of the registered amendment together with a certificate signed by

him and such certificate shall be conclusive evidence that the amendment has been registered.

(4) Where the Central Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons therefor to the society in the manner prescribed within seven days from the date of refusal.

(5) (a) Once the amendment of bye-laws has been registered by the Central Registrar, the co-operative society shall, as from the date of registration of amendment, become a multi-State co-operative society.

(b) The Central Registrar shall forward to the co-operative society a certificate signed by him to the effect that such society has been registered as a multi-State co-operative society under this Act and also forward a copy of the same to the Registrar of Co-operative Societies of the State concerned:

(c) The Registrar of Co-operative Societies referred to in clause (b) shall thereupon make an order directing that the society had as from the date of registration by the Central Registrar, ceased to be a society under the law relating to co-operative societies in force in that State.

CHAPTER III

Members of Multi-State Co-operative Societies and their Rights and Liabilities

19. *Persons who may become members.*—(1) No person shall be admitted as member of multi-State co-operative society except the following, namely :—

(a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (9 of 1872);

(b) any multi-State co-operative society or any co-operative society;

(c) the Central Government;

(d) a State Government;

(e) the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962 (26 of 1962);

(f) any other corporation owned or controlled by Government;

(g) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(h) such class or classes of persons or association of persons as may be permitted by the Central Registrar having regard to the nature and activities of a multi-State co-operative society.

(2) Such number of individuals possessing such qualifications as may be prescribed may be admitted as members of the National Co-operative Union of India Limited, New Delhi.

(3) Save as otherwise provided in sub-section (2) and notwithstanding anything contained in sub-section (1), no individual shall be eligible for admission as a member of a national co-operative society.

(4) Any person eligible for membership of a multi-State co-operative society may, on his application, be admitted as a member by such society.

(5) Every application for admission as a member of a multi-State co-operative society shall be disposed of by such society within a period of

four months from the date of receipt of the application, and the decision of such society on the application shall be communicated to the applicant within fifteen days from the date of such decision :

Provided that if the application is not disposed of within the period aforesaid, or the decision is not communicated within a period of fifteen days of the expiry of the aforesaid period of four months, the multi-State co-operative society shall be deemed to have made a decision, on the date of expiry of such period, refusing admission to the applicant.

(6) Notwithstanding anything contained in the section, the Central Government may, having regard to the fact that the interest of any person or class of persons conflicts or is likely to conflict with the objects of any multi-State co-operative society or class of multi-State co-operative societies, by general or special order published in the Official Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified multi-State co-operative society or class of multi-State co-operative societies, so long as such person or persons is or are engaged in or carrying on that profession, business or employment, as the case may be.

20. *Members not to exercise rights till due payment made.*—No member of a multi-State co-operative society shall exercise the rights of a member, unless he has made such payments to the society in respect of membership, or has acquired such interest in the society, as may be specified in the bye-laws.

21. *Expulsion of members.*—(1) A multi-State co-operative society may, by resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of members held for the purpose, expel a member for acts which are detrimental to the proper working of the society :

Provided that the member concerned shall not be expelled unless he has been given a reasonable opportunity of making representation in the matter.

(2) No member of the multi-State co-operative society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, for a period of three years from the date of such expulsion :

Provided that the Central Registrar may, on application of the multi-State co-operative society and if satisfied that in the special circumstances of the case, it is necessary so to do in the interests of the multi-State co-operative society, sanction the re-admission or admission within the said period, of any such member as a member of the said society.

22. *Votes of members.*—Every member of a multi-State co-operative society, including a member who is an employee of such society, shall have one vote in the affairs of the society :

Provided that—

(a) a member who is an employee of such society shall not be entitled to vote—

(i) at an election of a member of the board of such society ;

(ii) in any general meeting convened for framing the bye-laws of such society or any amendments thereto ;

(b) in the case of an equality of votes, the Chairman shall have a second or casting vote ;

(c) where any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 is a member of a multi-State co-operative society, each person nominated by such authority, on the board, in accordance with the provisions contained in this Act and the rules, shall have one vote ;

(d) a multi-State co-operative society, the members of which include co-operative societies or other multi-State co-operative societies, may provide for an equitable system of voting having regard to the membership of, and the extent of business carried on by such co-operative societies, or multi-State co-operative societies and other relevant circumstances.

23. *Manner of exercising vote.*—Every member of a multi-State co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy :

Provided that a multi-State co-operative society or a co-operative society which is a member of another multi-State co-operative society, may, subject to the provisions of sub-section (3) of section 29 and the rules, appoint its representative to vote on its behalf in the affairs of that other society.

24. *Restrictions on holding of shares.*—No member, other than any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 or a multi-State co-operative society or a co-operative society, shall hold more than such portion of the total share capital of the society (in no case exceeding one-fifth thereof) as may be prescribed :

Provided that Central Government may, by notification, specify in respect of any class of societies a higher or lower maximum than one-fifth of the share capital.

25. *Restrictions on transfer of shares or interest.*—The transfer of the share or interest of member in the capital of a multi-State co-operative society shall be subject to such conditions as to maximum holding are specified in section 24.

26. *Redemption of shares.*—Shares held in a multi-State co-operative society by any of the authorities referred to in clause (c) to (g) of sub-section (1) of section 19 shall be redeemable in accordance with the bye-laws of such multi-State co-operative society and in a case where the bye-laws do not contain any provision in this regard, in such manner as may be agreed upon between the multi-State co-operative society and such authority:

27. *Transfer of interest on death of members.*—(1) On the death of a member, a multi-State co-operative society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the board to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules :

practices and unfair trade practices investigated by him or inquired into by the Commission, in accordance with Form XI, Form XII^a and Form XII^b respectively.

13. In rule 12—

(1) For the word "Registrar" wherever it occurs, the words "Director General" shall be substituted.

(2) In the opening portion of the words "which is subject to registration under Chapter V", the words "registrable under sub-section (1) of section 33" shall (1) be substituted.

(3) In clause (i), in sub-clause (a), for the words "four", the words "two" shall be substituted.

(4) In clause (i), in sub-clause (b), for the word and figures "Form VIII", the word and figures "Form XII" shall be substituted.

(5) In clause (ii), in sub-clause (a), for the word "four", the word "two" shall be substituted.

(6) In clause (ii), in sub-clause (b), for the word "four", the word "two" shall be substituted.

(7) In clause (ii), sub-clause (c), for the word and figures "Form VIII", the word and figures "Form XII" shall be substituted.

14. For rule 13 of the said rules, the following shall be substituted, namely—

"**13. Examination and recording of agreements.**—(1) The Director General shall examine or cause to be examined particulars of every agreement received in his office,

(2) If, on such examination, any particulars are found to be defective or incomplete in any respect, the Director General shall, within a period of six months from the date of receipt of the agreement, direct the party who has furnished the agreement to rectify the defects therein or, as the case may be, to supply the omissions therefrom.

(3) The following particulars shall be endorsed on every document registered under these rules, namely—

(a) Date on which it is registered;

(b) Serial Number and page of the register of agreements in which entered.

(4) Every endorsement referred to in sub-rule shall be signed by the Director General and shall bear his official seal."

15. After rule 18, the following shall be inserted, namely—

"13A. Duties and functions of the Director General"

(1) (a) The Director General shall, in addition to the duties and functions entrusted to him under the Act and these Rules, be entitled to appear in any proceedings in the course of any inquiry before the Commission.

(b) Where the Director General is entitled to appear before the Commission, he may appear either in person or be represented by a counsel duly authorised in this behalf.

(2) It shall be the duty of the Director General to conduct such investigations as may be directed by the Commission for any of the purposes under the Act.

16. After rule 15 of the said rules, the following shall be added, namely—

"16. Inspection of, and extracts from, the register.—(1) Any person

45. *Mode of recovery of fees from purchaser.*—The Board, or any officer authorised by it in this behalf, may recover the fees under section 14A of the Act by adding the same to the price of the tobacco purchased by him."

G. S. R. 619 (E).—In exercise of the powers conferred by sub-section (1) of section 11 of the Tobacco Cess Act, 1975 (26 of 1975), hereinafter called the said Act, the Central Government hereby makes the following rules, namely :—

1. *Short title and Commencement.*—(1) These rules may be called, the **Tobacco Cess Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Authority to collect duty of excise on virginia tobacco.*

The duty of excise by way of cess payable under sub-section (1) of section 3 of the said Act in respect of virginia tobacco sold at an auction platform shall be payable by the seller thereof to

(a) The Secretary of the Board, or

(b) any other officer of the Board as authorised by it.

3. *Manner and Procedure of collection of duty of excise.*—(1) The Secretary or the officer referred to in rule 2 shall collect the duty of excise by deducting the same from any amount receivable by the seller towards the price of the virginia tobacco sold by him on the auction platform.

(2) The duty of excise so collected shall be paid in to the Consolidated Fund of India within seven days of the close of the calendar month during which such excise duty has been collected.

(3) The Board shall furnish to the Central Government on or before the fifteenth day of every month a return showing the amount of duty of excise collected and the amount paid into the Consolidated fund of India in respect of the preceding month.

G. S. R. 620.—In exercise of the powers conferred by section 32 of the Tobacco Board Act, 1975 (4 of 1975) the Central Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—(a) These rules may be called the **Tobacco Board (Auction) Rules, 1984.**

(b) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*—In these rules unless the context otherwise requires :—

(a) "Act" means the Tobacco Board Act, 1975 (4 of 1975).

(b) 'buyer' means a dealer, exporter or packer who has obtained the relevant certificate of registration under section 12 of the Act and the rules made thereunder and who is authorised by the Board, or any officer specified by the Board in this regard, to purchase tobacco on an auction platform ;

(c) 'grower' means a person who has obtained a certificate of registration under section 10 of the Act for growing virginia flue cured tobacco ;

(d) 'platform' means an auction platform established for the sale of tobacco under clause (cc) of sub-section (2) of section 8 of the Act ;

(e) "tobacco" means virginia flue cured tobacco ;

(f) All other terms and expressions shall have the same meaning as assigned to them in the Act.

3. *Growers to deliver tobacco on specified platforms.*—As soon as a platform has been established in any place, the Board or any officer of the Board authorised by it in this behalf, shall cause to be published in the local newspapers and in such other manner as may be deemed necessary, a notice requiring the growers in any local area to deliver their tobacco at the specified platform for sale, and such growers shall deliver their tobacco only at such specified platform.

4. *Returns to be submitted by growers.*—For the purpose of allotting a registered grower a platform and for purposes of regulating the proper conduct of auctions at the platforms, the Board may require a grower to submit such returns as may be specified in this regard.

5. *Buyers to be authorised.*—No buyers shall purchase tobacco at a platform unless he has obtained an authorisation in writing from the Board or from an officer of the Board authorised by it in this behalf.

6. *Malpractices by growers.*—A grower committing any of the following acts, shall be guilty of a malpractice:—

(i) Delivering or trying to deliver for sale tobacco in excess of the quantity allotted to him by the Board or an officer authorised by the Board in this behalf;

(ii) Delivering or trying to deliver for sale as his own tobacco, not grown by the grower;

(iii) Delivering or trying to deliver for sale tobacco which is nested, namely tobacco packed in such a manner as to deceive the buyer about the nature or quality of the contents as a whole;

(iv) Not submitting any returns which the grower is required to submit under these rules or under any regulations made by the Board;

(v) Obstructing the proceedings at a platform.

7. *Penalties and procedure for imposing penalties for malpractices by growers.*—The Chairman or any other officer authorised by the Board in this behalf may, after giving the grower an opportunity of being heard and for reasons to be recorded in writing, impose any one or both of the following penalties on a grower found guilty of a malpractice:—

(i) Refusal to receive or put up for sale any tobacco delivered by the grower;

(ii) Cancellation of the grower's registration.

Provided that the penalty cancellation of registration shall be imposed only by the Chairman.

8. *Malpractice by buyers.*—A buyer committing any of the following acts shall be guilty of a malpractice:—

(i) Failure or refusal to take delivery, at the time specified by the Board or any officer of the Board in charge of a platform, of the tobacco purchased by him;

(ii) Failure or refusal to make payment at the time and in the manner specified by the Board, for the tobacco purchased by him;

(iii) Obstructing the proceedings at a platform;

(iv) Failure or refusal to submit such returns as may be provided under these rules or under any regulation made by the Board.

9. *Penalties and procedure for imposing penalties for malpractices by buyers.*—The Chairman or any other officer authorised by the Board in this behalf may, after giving the buyer an opportunity to be heard and

for reasons to be recorded in writing, impose any one or both of the following penalties on a buyer found guilty of a malpractice :—

- (i) Refusal to permit him to be present at and make purchases on the platform;
- (ii) Cancellation of his registration.

Provided that the penalty of cancellation of registration shall be imposed only by the Chairman.

10. *Appeals*—(1) An appeal against any order made under rule 7 or rule 9 shall lie to the Board if the order is made by the Chairman and to the Chairman if made by any other officer of the Board.

(2) The appeal, which shall be in writing, shall be accompanied by a copy of the order appealed against, and shall be made within seven days of the passing of such order.

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MINISTRY OF HOME AFFAIRS

G. S. R. 755 (E)—(New Delhi, the 5th November, 1984)—In exercise of the powers conferred by section 30 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), the Central Government hereby makes the following rules further to amend the Foreign Contribution (Regulation) Rules, 1976, namely :—

1. (1) These rules may be called the *Foreign Contribution (Regulation) Amendment Rules, 1984*;

(2) They shall come into force on the day of their publication in the Official Gazette.

2. In the Foreign Contribution (Regulation) Rules, 1976 (hereinafter referred to as the said rules), in rule 3, after clause (a), the following clause shall be inserted namely :—

“(aa) receive foreign contribution under proviso to sub-section (1) of section 6, or under sub-section (1A) of that section or clause (b) of section 10, shall be made in Form FC-1A”.

3. After rule 3 of the said rules, the following rule shall be inserted, namely :—

“3A. Application for registration—An application for registration of an association referred to in sub-section (1) of section 8 for acceptance of foreign contribution shall be made in Form FC-8.”

4. In rule 4 of the said rules, in clause (a), for the words, brackets and figures “referred to in sub-section (1) of section 6”, the words, brackets figures and letter “referred to in sub-sections (1) and (1A) of section 6” shall be substituted.

5. In rule 6 of the said rules, for the words and figures “in rule 3 or rule 4”, the words, figures and letter “in rule 3, rule 3A or rule 4” shall be substituted.

6. In sub-rule (2) of rule 8 of the said rules, after the words “by a chartered accountant” the words “in Form FC-9” shall be inserted.

7. After Form FC-1 of the said rules, the following form shall be inserted, namely :—

“FORM FC-1A

[See rule 3(aa)]

Application for seeking prior permission of the Central Government for accepting foreign contribution by or on behalf of an association.

[Proviso to section 6(1), section 6(1A) and section 10(b) of the Foreign Contribution (Regulation) Act, 1976.]

1. (a) Particulars of the Association :
(Full name in BLOCK LETTERS, and address)
(b) address of the Principal/Head Office of the Association.
2. Full particulars of the person applying on behalf of the Association :
(a) Name (in full in BLOCK LETTERS)
(b) Name of father
(c) Occupation
(d) Residential address
(e) If an office bearer, the office held in the Association.
3. Reference of the notification published by the Central Government in Official Gazette directing the association to seek prior permission for acceptance of Foreign Contribution.
4. Nature and full details of contribution including value to be received.
5. The mode/channel of receipt.
6. Name of Bank and address of its Branch through which foreign contribution is proposed to be received
7. Purpose for which foreign contribution is proposed to be received.
8. Particulars of the foreign source from which contribution is proposed to be received.
(a) If an individual, his personal particulars including name, present address, permanent address, nationality, profession.
(b) If an organisation/Institution/Association/Trust/Foundation/Trade Union, etc., full particulars thereof including :—
(i) Full name and complete address
(ii) Address of Head Office/Principal Office.
(iii) Aims and objects.
(iv) Particulars of important office bearers.
9. Nature of connection/dealings with the foreign source.
10. Any other information of significance which the applicant may like to furnish.

Declaration

I hereby declare that the above particulars furnished by me/are true and correct.

Place :

Date :

Signature of Applicant

Note : The application should be signed by the chief functionary of the Association.”

8. For Forms FC-2 and FC-3, the following Forms shall be substituted, namely :—

“FORM FC-2

[See rule 3(b)]

Application for seeking prior permission of the Central Government to accept foreign hospitality.

[Section 9 read with section 10 (d) and 11(1) of the Foreign Contribution (Regulation) Act, 1976.]

1. Name in full (in block letters)
2. Date of birth
3. Name of father/husband
4. Present address
5. Permanent address
6. Passport particulars (if already in possession)

Status :

- (a) Member of Legislature
- (b) Office bearer of a political party
- (c) Judge of Supreme Court/High Court
- (d) Government Servant
- (e) Employee of a Company/Corporation
- (f) Any person or class of persons not specified in section 9.
8. Names of countries/places to be visited with duration of stay.
9. The countries and places where foreign hospitality is to be accepted.
10. Duration and purpose of visit to the country(ies)/place(s) mentioned in column 9 with specific dates.
11. Particulars of host(s) :—
 - (r) If an individual, his personal particulars including name, present address, permanent address, nationality, profession.
 - (b) If an organisation/Institution/Association/Trust/Foundation/Trade Union, etc, full particulars thereof including :—
 - (i) Full name and complete address
 - (ii) Address of Head Office/Principal Office
 - (iii) Aims and objects
 - (iv) Particulars of important office bearers.
12. *Full particulars, as in serial II(a) and (b) of the foreign source in case the actual source extending the hospitality is located in a country other than actually proposed to be visited.
13. Nature and duration of foreign hospitality proposed to be accepted with specific dates and with specific details.
14. Nature of connection/dealings with the host and/or foreign source extending the hospitality.
15. Approximate expenditure to be incurred on hospitality,
16. Any other information of significance which the applicant may like to furnish.

DECLARATION

I hereby declare that the above particulars furnished by me/are true and correct.

*Delete if not applicable.

Place :

Date :

Signature of the applicant.

***“foreign hospitality” means any offer, not being a purely casual one, made by a foreign source for providing a person with the cost of travel to any foreign country or territory or with free board, lodging, transport or medical treatment.”

FORM FC-3
[(See rule 4(a)]
(omitted)

9. After Form FC-7 of the said rules, the following forms shall be inserted, namely —

“FORM FC-8

(See rule 3A)

Form of application for registration to receive Foreign Contribution.

No.

Dated

To

The Secretary to the Government of India, Ministry of Home Affairs,
New Delhi,

Subject:—Application for registration under the Foreign Contribution (Regulation) Act, 1976

Sir,

I on behalf of the Association named hereafter, hereby apply for registration of the Association,

(i) Name of the Association and its complete postal address (please write in capital letters)

Name :

Address :

Town/city :

District :

State

(ii) If the Association is a registered Trust or Society its—

(1) Registration No.

(2) Place of Registration

(3) Date of Registration

(iii) Nature of the Association :

A. (a) Religious

(b) Cultural

(c) Economic

(d) Educational

(e) Social

B. If a religious Association, state whether

(a) Hindu

(b) Sikh

(c) Muslim

(d) Christian

(e) Buddhist

(f) Others

(iv) Detailed aims and objects of the Association (please enclose a copy of Memorandum of Association and/or Article of Association, if applicable)

(v) Main object(s) for which foreign contribution is to be accepted

(vi) Name and address of important office-bearers

(1)

(2)

(3)

Provided that no such transfer or payment shall be made except with the consent of the nominee, heir or legal representative, as the case may be.

(2) A multi State co operative society shall, unless within six months of the death of the member prevented by an order of a competent court, pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(3) All transfers and payments made by a multi State co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

28. *Liability of past member and estate of deceased member.*—(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a multi State co-operative society for the debts of the society as they existed,—

(a) in the case of a past member, on the date on which he ceased to be a member ;

(b) in the case of a deceased member, on the date of his death shall continue for a period of two years from such date.

(2) Notwithstanding anything contained in sub-section (1), where a multi-State co-operative society is ordered to be wound up under section 77 the liability of a past member who ceased to be a member or of the estate of a deceased member who died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceeding, are completed, but such liability shall extend only to the debts of the society as they existed on the date of cessation of membership or death, as the case may be.

CHAPTER IV

Direction and Management of Multi-State Co-operative Societies

29. *General body, its constitution, powers and functions.*—(1) The general body of a multi-State co-operative society shall consist of all the members of such society :

Provided that where the bye-laws of a multi-State co-operative society provide for the constitution of a smaller body consisting of delegates of members of the society elected or selected in accordance with such bye-laws, that smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society.

(2) Subject to the provisions of this Act, the rules and the bye-laws, the ultimate authority of a multi-State co-operative society shall vest in the general body of its members :

Provided that nothing contained in this sub-section shall affect the exercise by the board or any officer of a multi-State co-operative society of any power conferred on such board or such officer by this Act or the rules or the bye-laws:

(3) Where in any meeting of the general body or the board of a multi-State co-operative society, a co-operative or another multi-State co-operative society is to be represented, such co-operative society or other multi-State co-operative society shall be represented in such meeting only through the Chairman or the Chief Executive of such co-operative

society or other multi-State co-operative society, as the case may be, and where there is no board of such co-operative society or other multi-State co-operative society, for whatever reasons, through the administrator, by whatever name called, of such co-operative society or other multi-State co-operative society.

30. *Annual general meeting of the general body.*—(1) Every multi-State co-operative society shall, within such period as may be prescribed, after the close of the year, call a general meeting of its members in the manner prescribed for the purpose of—

- (a) consideration of the audit report and annual report ;
- (b) disposal of net profits ;
- (c) approval of the programme of activities for the ensuing year ;
- (d) amendment of bye-laws ;
- (e) election, if any, of the members of the board, other than nominated members, subject to the provisions of section 35 :

Provided that the Central Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months ;

Provided further that if in the opinion of the Central Registrar no such extension is necessary or such meeting is not called by the multi-State co-operative society within the extended period, if any, granted by him, the Central Registrar or any person authorised by him in this behalf may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly called by the society and the Central Registrar may order that expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Central, was or were responsible for the refusal or failure to convene the general meeting.

(2) At every annual general meeting of a multi-State co-operative society the Board shall lay before the society a statement showing the details of the loans or goods on credit, if any, given to any of the members of the board or to the spouse or a son or daughter of a member of the board during the preceeding year or outstanding against him or against such spouse or son or daughter of the member of the board.

31. *Special general meeting of the general body.*—(1) The Chief Executive may, at any time, on the direction of the board, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Central Registrar or from such member or members or a proportion of the total number of members, as may be provided in the bye-laws.

(2) If a special general meeting of a multi-State co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Central Registrar or any person authorised by him in this behalf shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the Chief Executive in accordance with the provisions of that sub-section and the Central Registrar may order that the expenditure incurred in calling such meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Central Registrar, was or were responsible for the refusal or failure to convene the special general meeting.

32. *Board of directors.*—Subject to the provisions of this Act and the rules, there shall be a board of directors for every multi-State co-operative society consisting of such number of members as may be provided for under the bye-laws.

33. *Association of employees in the management decision making process.*—Every multi-State co-operative society shall devise such procedure, as may be specified in the bye-laws or in the administrative instructions for association of the representatives of employees of such multi-State co-operative societies at such level or bodies as may be specified in the bye-laws or the instructions issued in this regard, in the management decision making process.

34. *Disqualification for a member of a board.*—No member of any multi-State co-operative society or nominee of a member-society on a national co-operative society shall be eligible for being chosen as, or for being, a member of the board of such multi-State co-operative society or national co-operative society or of any other co-operative society to which the multi-State co-operative society is affiliated, if such member—

(a) has been adjudged by a competent court to be insolvent or of unsound mind;

(b) is concerned or participates in the profits of any contract with the society;

(c) has been convicted for an offence involving moral turpitude;

(d) holds any office or place of profit under the society;

Provided that the Chief Executive or such full-time employee of the society as may be notified by the Central Government from time to time or a person elected by the employees of such society to represent them on the board of such society shall be eligible for being chosen as, or for being, a member of such board;

(e) has been a member of the society for less than twelve months immediately preceding the date of such election or appointment;

(f) has interest in any business of the kind carried on by the society of which he is a member;

(g) has taken loan or goods on credit from the society of which he is a member, or is otherwise indebted to such society and after the receipt of a notice of default, issued to him by such society, has defaulted—

(i) in repayment of such loan or debt or in payment of the price of the goods taken on credit, as the case may be, within the date fixed for such repayment or payment or where date is extended, which in no case shall exceed six months, within the date so extended; or

(ii) when such loan or debt or the price of goods taken on credit is to be paid in instalments, in payment of any instalment, and the amount in default or any part thereof has remained unpaid on the expiry of six months from the date of such default;

Provided that a member of the board who has ceased to hold office as such under this clause shall not be eligible, for a period of one year, from the date on which he ceased to hold office, for re-election as a member of the board of the multi-State co-operative society of which he was a member or for election to the board of any other multi-State co-operative society;

(h) is a person against whom any amount due under a decree decision or order is pending recovery under this Act ;

(i) is retained or employed as a legal practitioner on behalf of or against the multi-State co-operative society, or on behalf of or against any other multi-State co-operative society which is a member of the former society.

Explanation.—For the purposes of this clause “legal practitioner” has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1962) ;

(j) has been convicted for any offence under this Act.

35. Election of members of board.—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, elections of the members of the board of such multi-State co-operative societies or class of multi-State co-operative societies as the Central Government may, by general or special order, notify, shall be vested in such returning officers as may be appointed by the Central Registrar in this behalf.

(2) The vote at such elections shall be by secret ballot.

(3) The term of office of the elected members of the board shall be such, not exceeding three years from the date of election, as may be specified in the bye-laws of a multi-State co-operative society.:

Provided that the elected members shall continue to hold office till their successors are elected or nominated under the provision of this Act or the rules or the bye-laws and assume the charge of their office.

(4) No person shall be eligible to be elected as a member of the board of a multi-State co-operative society unless he is a member of the general body of that society.

(5) The Central Government may make rules generally to provide for or to regulate matters in respect of elections of members of the board.

36. Holding of office in co-operative society.—Notwithstanding anything contained in this Act, no person shall be eligible to hold, at the same time, office of a president or chairman or vice-president or vice-chairman on the board of more than one multi-State co-operative society.

Provided that any person holding, at the commencement of the Act, the office of a president or chairman or vice-president or vice-chairman in more than one multi-State co-operative society shall, within three months from such commencement by notice in writing signed by him, intimate the name of the multi-State co-operative society in which he wishes to serve and thereupon his office in the other multi-State co-operative society in which he does not wish to serve shall become vacant :

Provided further that in default of such intimation within the period referred to in the preceding proviso, his offices in all the multi-State co-operative societies shall, at the expiration of the period aforesaid, become vacant.

37. Restrictions on holding of office.—No person shall be eligible to hold the office of a president or chairman or vice-president or vice-chairman on the board of a multi-State co-operative society, after he has held the office as aforesaid during two consecutive terms, whether full or part :

Provided that a person who has ceased to hold the office of a president or chairman continuously for one full term of three years shall again be eligible for the election to the offices aforesaid.

Explanation.—Where any person holding the office of the president or vice-president or chairman or vice-chairman at the commencement of this Act is again elected to that office after such commencement, he shall for the purpose of this section, be deemed to have held office for one term before such election.

38. *Payment of honorarium.*—Honorarium may be paid to the elected chairman or president of the board out of the profits of the multi-State co-operative society in respect of specific services rendered by him, subject to such restrictions and conditions as may be prescribed.

39. *Removal of elected members by general body.*—An elected member of a board who has acted adversely to the interests of multi-State co-operative society may, on the basis of a report from the Central Registrar or otherwise, be removed from the board upon a resolution of the general body passed at its meeting by a majority of not less than two-thirds of the members present and voting at the meeting.

Provided that the member concerned shall not be removed unless he has been given a reasonable opportunity of making representation in the matter.

40. *Removal of member by Central Registrar.*—If in spite of cessation of office under circumstances mentioned in section 34, section 36, section 37 or section 39 a member of the board refuses to vacate his office, the Central Registrar shall, by order in writing, remove him from such office.

41. *Nominees of Central Government or State Government on the board.*—

(1) Where the Central Government or a State Government has subscribed to the share capital of a multi-State co-operative society or has guaranteed the repayment of principal and payment of interest on debentures issued by a multi-State co-operative society or has guaranteed the repayment of principal and payment of interest on loans and advances to a multi-State co-operative society, the Central Government or the State Government in this behalf, as the case may be, or any person authorised by the Central Government or the State Government, shall have the right to nominate on the board such number of persons as may be prescribed.

(2) The bye-laws of a multi-State co-operative society may provide for the nomination of persons in excess of the limits prescribed under subsection (1).

(3) A person nominated under this section shall hold office during the pleasure of the Government by which he has been so nominated.

42. *Powers and functions of the board.*—(1) The board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such power shall include the power—

(a) to admit members ;

(b) to interpret the organisational objectives and set up specific goals to be achieved towards these objectives ;

(c) to make periodic appraisal of operations ;
 (d) to appoint a Chief Executive and such other employees of the society (out of the list of persons referred to in section 50) as are not required to be appointed by the Chief Executive ;

(e) to make provisions for regulating the appointment of employees of the multi-State co-operative society and the scales of pay, allowances and other conditions of service of, including disciplinary action against, such employees ;

(f) to approve annual and supplementary budget ;

(g) to acquire or dispose of immovable property ;

(h) to raise funds ;

(i) to sanction loans to the members ; and

(j) to take such other measures or to do such other acts as may be prescribed or required under this Act

43 Meeting of the board.—(1) The Chief Executive shall convene the meetings of the board at the instance of the chairman or president of the multi-State co-operative society.

(2) The total number of meetings of the board in a year and the venue of meetings may be such as may be prescribed :

Provided that the board shall meet at least once in every quarter.

44. Chief Executive.—(1) There shall be a Chief Executive, by whatever designation called of every multi-State co-operative society, to be appointed by the board and he shall be a full-time employee of such multi-State co-operative society.

(2) The Chief Executive shall be a member of the board and of the Executive Committee and such other committees or sub-committees as may be constituted under sub-section (1) of section 46.

(3) The functional directors in national co-operative societies shall also be members of the board.

(4) Where the Central Government has subscribed to the extent of more than one-half of the share capital of a national co-operative society, it shall be obligatory on such a society to seek prior approval of the Central Government to the appointment of Chief Executive and the functional directors.

45. Powers and functions of Chief Executive.—The Chief Executive shall exercise the powers and discharge the functions specified below, namely :—

(a) day-to-day management of the business of the multi-State co-operative society ;

(b) operating the accounts of the multi-State co-operative society and be responsible for making arrangements for safe custody of cash ;

(c) signing on the documents for and on behalf of the multi-State co-operative society ;

(d) making arrangements for the proper maintenance of various books and records of the multi-State co-operative society and for the correct preparation, timely submission of periodical statements and returns in accordance with the provisions of this Act, the rules and the bye-laws ;

(e) convening meetings of the general body of the multi-State co-operative society, the board and the Executive Committee and other committees or sub-committees constituted under sub-section (1) of section 46 and maintaining proper records for such meetings ;

(f) making appointments to posts in the multi-State co-operative society in accordance with the rules made under clause (e) of sub-section (2) of section 42 except the posts in relation to which the power of appointment vests in the board under clause (d) of that sub-section ;

(g) assisting the board in the formulation of policies and objectives and planning ;

(h) furnishing to the board periodical information necessary for appraising the operations and functions of the multi-State co-operative society ;

(i) performing such other duties, and exercising such other powers, as may be prescribed or as may be specified in the bye-laws of the multi-State co-operative society.

46. Committees of the board.—(1) The board may, subject to such conditions as may be prescribed, constitute an Executive Committee and other committees or sub-committees, as may be considered necessary.

(2) The Executive Committee or other committee or sub-committee referred to in sub-section (1) shall perform such functions as are assigned to it in accordance with the bye-laws of the multi-State co-operative society.

47. Central Government's power to give directions in the public interest.—If the Central Government is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other developmental programmes approved or undertaken by the Central Government or to secure proper management of the business of the multi-State co-operative societies generally or for preventing the affairs of the multi-State co-operative society being conducted in a manner detrimental to the interests of the members, any depositors or creditors thereof, it is necessary to issue directions to any multi-State co-operative society generally or to any class of multi-State co-operative societies or in particular, the Central Government may issue directions to them or to it, from time to time, and all such multi-State co-operative societies or the society concerned, as the case may be, shall be bound to comply with such directions.

48. Supersession of board.—(1) If in the opinion of the Central Registrar the board of any multi-State co-operative society is persistently making default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or has committed any act which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 47 or that there is a stalemate in the constitution or functions of the board, the Central Registrar may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received, by order in writing, remove the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding one year, as may be specified in the order, which period may, at the discretion of the Central Registrar, be extended from

time to time ; so, however, that the aggregate period does not exceed two years.

(2) The Central Registrar may fix such remuneration for the administrators, as he may think fit and the remuneration shall be paid out of the funds of the multi-State co-operative society.

(3) The administrator shall, subject to the control of the Central Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the board or of any officer of the multi-State co-operative society and take all such actions as may be required in the interests of the society.

(4) Save as otherwise provided in sub-section (5), the administrator shall, before the expiry of his term of office, arrange for the constitution of a new board in accordance with the bye-laws of the multi-State co-operative society.

(5) If at any time during the period the administrator is in office, the Central Registrar considers it necessary or expedient so to do, he may, by order in writing giving reasons therefor, direct the administrator to arrange for the constitution of a new board for such multi-State co-operative society in accordance with the bye-laws of such society and immediately on the constitution of such board, the administrator shall hand over the management of such society to such newly constituted board and cease to function.

(6) Where a multi-State co-operative society is indebted to any financial institution, the Central Registrar shall, before taking any action, under sub-section (1) in respect of that society, consult the financial institution.

(7) Notwithstanding anything contained in this Act, the Central Registrar shall, in the case of a co-operative bank, if so required in writing by the Reserve Bank in the public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of a co-operative bank, pass an order for the supersession of the board of that co-operative bank and for the appointment of an administrator therefor for such period or periods not exceeding five years in the aggregate as may from time to time be specified by the Reserve Bank.

49. Securing possession of records, etc.—(1) If—

(a) the records (including registers and books of accounts) of a multi-State co-operative society are likely to be tampered with or destroyed or the funds or other property of such society are likely to be misappropriated or misapplied ; or

(b) the board of a multi-State co-operative society is reconstituted at a general meeting of the society ; or

(c) the board of a multi-State co-operative society is removed by the Central Registrar under sub-section (1) of section 48 ; or

(d) a multi-State co-operative society is ordered to be wound up under section 77 and the outgoing members of the board refuse to hand over charge of the records and property of the society to those having, or entitled to receive, such charge, the Central Registrar may apply to the magistrate within whose jurisdiction the multi-State co-operative society functions for securing the records and property of the society.

(2) On receipt of an application under sub-section (1), the magistrate may, by a warrant, authorise any police officer not below the rank of a sub-inspector to enter and search any place where such records and property are kept or are believed to be kept and to seize such record and property ; and the records and property so seized shall be handed over to the new board or administrator of the multi-State co-operative society or to the liquidator, as the case may be.

(3) Every such search and seizure shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

50. *Constitution of body of persons for preparation of list, etc.*—The Central Government shall—

(a) constitute a body of persons in the manner prescribed for the preparation of a list of persons eligible for appointment to the posts of Chief Executives and other managerial posts in national co-operative societies, the maximum pay-scale of which exceeds such amount as may be prescribed.

(b) make rules for regulating the recruitment, remuneration, allowances and other conditions of service of officers and other employees of national co-operative societies.

51. *Acts of multi-State co-operative societies not to be invalidated by certain defects.*—No act of a multi-State co-operative society or of any board or of any committee or of any officer of the society shall be deemed to be invalid by reason only of the existence of any defect in the procedure or in the constitution of the society or of the board or of the committee thereof or in the appointment or election of an officer or on the ground that such officer was disqualified to hold office.

CHAPTER V

Privileges of Multi-State Co-Operative Societies

52. *Multi-State co-operative society to be body corporate.*—The registration of a multi-State co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contract, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it is constituted.

53. *Charge and set off, in respect of share or contribution or interest of members.*—A multi-state co-operative society shall have a charge on the share or contribution or interest in the capital on the deposits of a member or past or deceased member and on any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set-off any sum credited or payable to a member or past member or the estate of deceased member in or towards payment of any such debt.

54. *Share or contribution or interest not liable to attachment.*—(1) Subject to the provisions of section 53, the share or contribution or interest of a member or past or deceased member in the capital of multi-State co-operative society shall not be liable to attachment or sale under any decree or order of any court in respect of any debt or liability in by such member, and an official assignee or a receiver under any law relating to insolvency shall

not be entitled to or have any claim on such share or contribution or interest.

(2) The reserve fund, or bad debt reserves, or the provident fund of the employees, of a multi-State co-operative society invested by such society in accordance with the provisions of this Act and the rules shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

55. Register of members.—Any register or list of members or shares kept by any multi-State co-operative society shall be prima facie evidence of any of the following particulars entered therein namely :—

(a) the date on which any person entered in such register on list became a member;

(b) the date on which any such person ceased to be a member.

56. Admissibility of copy of entry as evidence—(1) A copy of any entry in a book of a multi State co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer of a multi State co-operative society and no officer in whose office the books of a multi State co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under an order of a court or an arbitrator made for a special cause.

57. Exemption from compulsory registration of instruments.—Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Registration Act, 1908 (16 of 1908), shall apply to—

(a) any instrument relating to shares in a multi State co-operative society notwithstanding that the assets of the society consist in whole or in part of immovable property ; or

(b) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder thereof to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

(c) an endorsement upon or transfer of any debenture issued by any such society.

58. Deduction from salary to meet multi-State co-operative society's claim in certain cases.—(1) Notwithstanding anything contained in any law for the time being in force, a member of a multi-State co-operative society may execute an agreement in favour of that society providing that his employer disbursing his salary or wages shall be competent to deduct every month from the salary or wages payable to him, such amount as may be specified in the agreement and to pay the amount so deducted to the

society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement, the employer disbursing the salary or wages of the members shall, if so required by the multi-State co-operative society by a requisition in writing and so long as the society does not intimate that the whole of such debt or other demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society within the period of fourteen days of the date on which deduction has been made, as if it were a part of the salary or wages payable on the day as required under the Payment of Wages Act, 1936 (4 of 1936), and such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

(3) If after the receipt of a requisition made under sub-section (2) the employer disbursing the salary or wages of the member at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the multi-State co-operative society, the society shall be entitled to recover any such amount from such employer as arrears of land revenue and amount so due from such employer shall rank in priority in respect of the liability of such employer equal to that of the salary of wages in arrears.

59. *Government aid to multi-State co-operative societies.*—Notwithstanding anything contained in any law for the time being in force, the Central Government or a State Government may, with a view to promoting co-operative movement,—

(a) subscribe to the share capital of a multi-State co-operative society;

(b) give loans or make advances to a multi-State co-operative society;

(c) guarantee the repayment of principal and payment of interest on debentures issued by a multi-State co-operative society;

(d) guarantee the repayment of share capital of a multi-State co-operative society and dividends thereon at such rates as may be specified by the Central Government or the State Government;

(e) guarantee the repayment of principal and payment of interest on loans and advances to a multi-State co-operative society;

(f) give financial assistance in any other form, including subsidies, to any multi-State co-operative society.

CHAPTER VI

Properties and Funds of Multi-State Co-operative Societies

60. *Funds not to be divided by way of profit.*—(1) No part of the funds, other than net profits, of a multi-State co-operative society shall be divided by way of bonus or dividend or otherwise distributed among its members.

(2) The net profits of a multi-State co-operative society referred to in sub-section (1) in respect of a society earning profits shall be calculated by deducting from the gross profits for the year, all interest accrued and accruing in relation to amounts which are overdue, establishment charges, interest payable on loans and deposits, audit fees, working expenses including repairs, rent, taxes and depreciation, bonus payable to employees under the law relating to payment of bonus for the time being

in force, and equalisation fund for such bonus, provision for payment of income-tax and making approved donations under the Income tax Act, 1961 (43 of 1961), development rebate, provision for development fund, bad debt fund, price fluctuation fund, dividend equalisation fund, share capital, redemption fund, investment fluctuation fund, provision for retirement benefits to employees, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profit :

Provided that such society may add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year :

Provided further that in case of such multi-State co-operative societies as do not have share capital, the surplus of income over expenditure shall not be treated as net profits and such surplus shall be dealt with in accordance with the bye-laws.

61. Disposal of net profits—(1) A multi-State co-operative society shall, out of its net profits in any year—

(a) transfer an amount not less than twenty-five per cent to the reserve fund ; and

(b) credit such portion, as may be prescribed, to the co-operative education fund maintained by the National Co-operative Union of India Limited, New Delhi.

(2) Subject to such conditions as may be prescribed, the balance of the net profits may be utilised for all or any of the following purposes, namely :—

(a) payment of dividend to members on their paid-up share capital at a rate not exceeding the prescribed limit ;

(b) constitution of, or contribution to, such special funds including education funds, as may be specified in the bye-laws ;

(c) donation of amounts not exceeding five per cent of the net profits for any purpose connected with the development of co-operative movement or charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890) ;

(d) payment of *ex gratia* amount to employees of multi-State co-operative society to the extent and in the manner specified in the bye-laws.

(3) The funds of a multi-State co-operative society shall not be utilised for any political purpose.

62. Investment of funds.—A multi-State co-operative society may invest or deposit its funds—

(a) in a co-operative bank, State co-operative bank, co-operative land mortgage bank, co-operative land development bank or Central co-operative bank ; or

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (2 of 1882) ; or

(c) in the shares or securities of any other multi-State co-operative society or any co-operative society ; or

(d) in the shares, securities or assets of any other institution, with the previous approval of the Central Registrar ; or

(e) with any bank ; or

(f) in such other mode as may be prescribed.

Explanation.—In clause (e), “bank” means any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), and includes,—

(i) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(ii) a subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).

63. Restrictions on loans.—(1) A multi-State co-operative society, other than a co-operative bank, shall not make a loan—

(a) to a member on the security of his share or on the security of a non-member; or

(b) to a non-member :

Provided that with the general or special sanction of the Central Registrar, a multi-State co-operative society may make loans to another multi-State co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a multi-State co-operative society may make a loan to a depositor on security of his deposit.

64. Restrictions on borrowing.—A multi-State co-operative society shall receive deposits and loans only to such extent and under such conditions as may be specified in the bye-laws :

Provided that a co-operative bank shall be governed by the provisions of the Banking Regulations Act, 1949 (10 of 1949).

65. Restrictions on other transactions with non members.—Save as provided in sections 63 and 64, the transaction of a multi-State co-operative society with any person other than a member shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

66. Contributory provident fund.—(1) A multi-State co-operative society having such number or class of employees as may be prescribed may establish a contributory provident fund for the benefit of such employees to which shall be created all contributions made by the employees and the society in accordance with the bye-laws of the society.

(2) Monies standing to the credit of any contributory provident fund established by multi-State co-operative society under sub-section (1) shall not—

(a) be used in the business of the society ;

(b) form part of the assets of the society ;

(c) be liable to attachment or be subject to any other process of any court or other authority.

(3) Notwithstanding anything contained in this section, a provident fund established by a multi-State co-operative society to which the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), apply, shall be governed by that Act.

CHAPTER VII

Audit, Inquiry, Inspection and Surcharge

67. *Audit.*—(1) The Central Registrar shall audit, or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every multi-State co-operative society at least once in each year.

(2) The audit under sub-section (1) include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the multi-State co-operative society.

(3) The person auditing the accounts of a multi-State co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of such society and shall be allowed to verify its cash balance and securities.

(4) The directors, managers, administrators and other officers of the multi-State co-operative society shall furnish to the person auditing the accounts of the society all such information as to its transactions and working as such person may require.

(5) The Central Registrar or the person authorised by him under sub-section (1) to audit the accounts of a multi-State co-operative society shall have power, where necessary—

(a) to summon at the time of the audit any officer, agent, servant or member of the society, past or present, who, he has reason to believe can give valuable information in regard to transactions of the society or the management of its affairs; and

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by any officer, agent, servant, or member of the society in possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit, to take them into custody.

(6) If at the time of audit the accounts of a multi-State co-operative society are not complete, the Central Registrar or the person authorised by him under sub-section (1), to audit may cause the accounts to be written up at the expense of the society.

(7) Audit fee, if any, due from any multi-State co-operative society shall be determined by the Central Registrar and shall be recoverable in the manner as is provided in section 89.

68. *Inspection of multi-State co-operative societies.*—(1) The Central Registrar, or any person authorised by him by general or special order in writing in this behalf, may inspect a multi-State co-operative society.

(2) (a) For the purpose of inspection under sub-section (1), the Central Registrar or the person authorised by him under that sub-section shall at all times have access to all books, account, papers, vouchers, securities, stock and other property of that society and may, in the event of serious irregularities discovered during inspection, take them into custody and shall have power to verify the cash balance of the society and subject to the general or special order of the Central Registrar to call meeting of the board and also a general meeting of the society where such meeting is, in his opinion necessary.

(b) Every officer or member of a multi-State co-operative society shall furnish such information with regard to the working of the society

as the Central Registrar or the person making such inspection may require.

(3) A copy of the report of inspection under this section shall be communicated to the multi-State co-operative society within a period of three months from the date of completion of such inspection.

69. *Inquiry by Central Registrar.*—(1) The Central Registrar may, of his own motion or on the application of a majority of the members of the board or of not less than one-third of the members, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a multi-State co-operative society.

(2) The Central Registrar or the person authorised by him under sub-section (1) shall have the powers, namely :—

(a) he shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the multi-State co-operative society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same, at any place specified by him ;

(b) he may, notwithstanding any rule or bye laws specifying the period of notice for a general meeting of the multi-State co-operative society, require the officers of the society to call a general meeting of the society by giving notice of not less than seven days at such time and place at the headquarters of the society to consider such matters as may be directed by him ; and where the officers of the society refuse or fail to call such a meeting he shall have power call it himself ;

(c) he may summon any person who is reasonably believed by him to have knowledge of the affairs of the multi-State co-operative society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of general meeting of the society called under the bye-laws of the society and its proceeding shall be regulated by such bye-laws.

(4) The Central Registrar shall, within a period of three months of the date of receipt of the report, communicate a brief summary of the report of the inquiry to the multi-State co-operative society, the financial institutions, if any, to which the society is affiliated, and to the persons or authority, if any, at whose instance the inquiry is made.

70. *Inspection of books of indebted multi-State co-operative societies.*—(1) The Central Registrar shall, on an application of a creditor of a multi-State co-operative society, inspect, or direct some person authorised by him by order in writing in this behalf to inspect, the books of the society :

Provided that no such inspection shall be made unless the applicant—

(a) satisfies the Central Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time ; and

(b) deposits with the Central Registrar such sum as security for the costs of the proposed inspection as the Central Registrar may require.

(2) The Central Registrar shall communicate the result of any such inspection to the creditor.

71. Costs of inquiry and inspection.—Where an inquiry is held under section 69 or an inspection is made under section 70, the Central Registrar may apportion the costs, or such part of the costs, as he may think fit, between the multi-State co-operative society, the members or creditor demanding an inquiry or inspection, and the officers or former officers and members or past members of that society :—

Provided that—

(a) no order of apportionment of the cost shall be made under this section unless the society or the person liable to pay the costs thereunder has had a reasonable opportunity of being heard ;

(b) the Central Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

72. Recovery of costs.—Any sum awarded by way of costs under section 71 may be recovered, on application to a magistrate having jurisdiction in the place where the person, from whom the money is claimable, actually and voluntarily resides or carries on business, and such magistrate shall recover the same as if it were a fine imposed by himself.

73. Repayment, etc.—(1) If in the course of an audit, inquiry, inspection or the winding up of a multi-State co-operative society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has appropriated or fraudulently retained any money or other property belong to such society, the Central Registrar may, of his own motion or on the application of the board, liquidator or any creditor, inquire himself or direct any person authorised by him, by an order in writing in this behalf, to inquire into the conduct of such person within the period of two years from the date of the report of the audit, inspection or inquiry or the date of the order of winding up, as the case may be :

Provided that where the Central Registrar is satisfied that such inquiry could not be commenced during the period of two years aforesaid on account of fraud or concealment of facts make, or direct the inquiry to be made, within such period not exceeding six years from the date of the report of the audit, inspection or inquiry or the date of the order of winding up, as he may think fit.

(2) Where an inquiry is made under sub-section (1), the Central Registrar may, after giving the person concerned a reasonable opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent as the Central Registrar may consider just and equitable.

CHAPTER VIII Settlement of Disputes

74. (1) Notwithstanding anything contained in any other law for the time being in force, if any dispute (other than a dispute regarding disciplinary action taken by a multi-State co-operative society against its paid employee or an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947) (14 of 1947) touching the

constitution, management or business of a multi-State co-operative society arises—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or a person claiming through a member, past member or deceased member and the multi-State co-operative society, its board or any officer, agent or employee of the multi-State co-operative society or liquidator, past or present, or

(c) between the multi-State co-operative society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the multi-State co-operative society, or

(d) between the multi-State co-operative society and any other multi-State co-operative society, between a multi-State co-operative society and liquidator of one multi-State co-operative society or between the liquidator of another multi-State co-operative society and the liquidator of another multi-State co-operative society, such dispute shall be referred to the Central Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute :

Provided that all disputes in which a national co-operative society is a party shall be referred to the Central Registrar or any officer empowered to exercise the powers of the Central Registrar.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management, or business of a multi-State co-operative society, namely :—

(a) a claim by the multi-State co-operative society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not ;

(b) a claim by a surety against the principal debtor where the multi-State co-operative society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not ;

(c) any dispute arising in connection with the election of any officer of a multi-State co-operative society.

(3) If any question arises whether a dispute referred to the Central Registrar is or is not a dispute touching the constitution, management or business of multi-State co-operative society, the decision thereon of the Central Registrar shall be final and shall not be called in question in any court.

75 Limitation.—(1) Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963), but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Central Registrar shall,—

(a) when the dispute relates to the recovery of any sum including interest thereon due to a multi-State co-operative society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society ;

(b) save as otherwise provided in clause (c), when the dispute relates to any act or omission on the part of any of the parties referred to in clause (b) or clause (c) of sub-section (1) of section 74, six years from the date on which the act or omission, with reference to which the dispute arose, took place ;

(c) when the dispute relates to a multi-State co-operative society which has been ordered to be wound up under section 77 or in respect of which an administrator has been appointed under section 48, be six years from the date of the order issued under section 77 or section 48, as the case may be ;

(d) when the dispute is in respect of an election of an officer of a multi-State co-operative society, be one month from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any dispute, except those mentioned in sub-section (1), which are required to be referred to the Central Registrar shall be regulated by the provisions of the Limitation Act, 1963 (36 of 1963), as if the dispute were a suit and the Central Registrar a civil court.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Registrar may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the Central Registrar that he had sufficient cause for not referring the dispute within such period.

76. *Settlement of disputes.*—(1) The Central Registrar may, on receipt of the reference of dispute under section 74,—

(a) elect to decide the dispute himself ; or

(b) transfer it for disposal to any other person who has been invested by the Central Government with powers in that behalf.

(2) The Central Registrar may withdraw any reference transferred under clause (b) of sub-section (1) and decide it himself or refer the same for decision to any other person who has been invested by the Central Government with powers in that behalf.

(3) The Central Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

CHAPTER IX

Winding up of Multi-State Co-operative Societies

77. *Winding up of multi-State co-operative societies.*—(1) If the Central Registrar, after an inquiry has been held under section 69 or an inspection has been made under section 70, or on receipt of an application made by not less than three-fourths of the members of a multi-State co-operative society, is of opinion that the society ought to be wound up, he may, after giving the society a reasonable opportunity of making its representations, by order, direct it to be wound up

(2) The Central Registrar may, of his own motion and after giving the multi-State co-operative society a reasonable opportunity of making its representations, make an order directing the winding up of the multi-State co-operative society—

(a) where it is a condition of the registration of the society that the society shall consist of at least fifty members and the member of members

has been reduced to less than fifty ; or

(b) where the multi-State co-operative society has not commenced working within a period of six months of the date of its registration or such extended period as the Central Registrar may allow in this behalf or has ceased to function in accordance with co-operative principles.

(3) The Central Registrar may cancel an order for the winding up of a multi-State co-operative society, at any time, in any case where, in his opinion, the society should continue to exist:

(4) A copy of such order shall be communicated by registered post to the multi-State co-operative society and to the financial institutions, if any, of which the society is a member.

(5) Notwithstanding anything contained in this section, no co-operative bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

78. Winding up of co-operative banks at the direction of Reserve Bank.—Notwithstanding anything to the contrary contained elsewhere in this Act, the Central Registrar shall make an order for the winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).

79. Reimbursement to the Deposit Insurance Corporation by liquidator.—Where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is wound up and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of this Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act.

80. Liquidator.—(1) Where the Central Registrar has made an order under section 77 for the winding up of a multi-State co-operative society, the Central Registrar may appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the multi-State co-operative society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, effects and claims and carry on the business of the multi-State co-operative society so far as may be necessary with the previous approval of the Central Registrar.

(3) Where an appeal is preferred under clause (k) of sub-section (1) of section 90, an order for the winding up of a multi-State co-operative society made under section 77 shall not operate thereafter until the order is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order for the winding up of a multi-State co-operative society is set aside in appeal, the property, effects and actionable claim of the society shall re-vest in the society.

81. *Power of Liquidator.*—(1) Subject to any rules made in this behalf, the whole of the assets of a multi-State co-operative society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 80 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of the Central Registrar—

(a) to institute and defend suits and other legal proceedings on behalf of the multi-State co-operative society by the name of his office ;

(b) to determine from time to time the contribution (including debts due and costs of liquidation) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the multi-State co-operative society ;

(c) to investigate all claims against the multi-State co-operative society and subject to the provisions of this Act, to decide questions of priority arising between claimants ;

(d) to pay claims against the multi-State co-operative society, including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit ; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case ;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne ;

(f) to determine whether any person is a member, past member or nominee of a deceased member ;

(g) to give such directions in regard to collection and distribution of the assets of the multi-State co-operative society as may appear to him to be necessary for winding up the affairs of that society ;

(h) to carry on the business of the multi-State co-operative society so far as may be necessary for the beneficial winding up of the same ;

(i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the multi-State co-operative society may be rendered liable ;

(j) to make any compromise or arrangement with any person between whom and the multi-State co-operative society there exists any dispute and to refer any such dispute for decision ;

(k) after consulting the members of the multi-State co-operative society, to dispose of surplus, if any, remaining after paying the claims against the society, in such manner as may be prescribed ;

(l) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or alleged to be subsisting between the multi-State co-operative society and a contributory or other debtor or person apprehending liability to the multi-State co-operative society and all question in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security

for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a multi-State co-operative society have been wound up, the liquidator shall make a report to the Central Registrar and deposit the records of the society in such place as the Central Registrar may direct.

82. Disposal of surplus assets—The surplus assets, as shown in the report of a liquidator of a multi-State co-operative society which is wound up,—

(a) may, if the bye-laws of the multi-State co-operative society specify the purpose for which surplus shall be utilised, be utilised by the Central Registrar for the said purpose, and

(b) if the bye-laws aforesaid do not specify the purpose, be divided by the Central Registrar, with the previous sanction of the Central Government, amongst the members of such multi-State co-operative society in such manner as may be prescribed.

83. Priority of contributions assessed by liquidator.—Notwithstanding anything contained in any law relating to insolvency, the contributions assessed by a liquidator shall rank next to debts due to the Central Government or a State Government or a local authority in accordance with the order of priority in insolvency proceedings.

84. Power of Central Registrar to cancel registration of a multi-State co-operative society.—(1) The Central Registrar may, after considering the report of the liquidator made to him under sub-section (3) of section 81, order the registration of the multi-State co-operative society to be cancelled and on such cancellation, that society shall stand dissolved.

(2) An order passed under sub-section (1) shall be communicated by registered post to the president of the multi-State co-operative society and to the financial institutions, if any, of which the society was a member.

CHAPTER X

Execution of Decrees, Orders and Decisions

85. Execution of decisions, etc.—Every decision or order made under section 30, section 31, section 73, section 76, section 90, section 92 or section 93 shall, if not carried out,—

(a) on a certificate signed by the Central Registrar or any person authorised by him in writing in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as if it were a decree of such court; or

(b) where the decision or order provides for the recovery of money, be executed according to the law for the time being in force for the recovery of arrears of land revenue:

Provided that any application for the recovery in such manner any sum shall be made—

(i) to the collector and shall be accompanied by a certificate signed by the Central Registrar or by any person authorised by him in writing in this behalf;

(ii) within twelve years from the date fixed in the decision or order and if no such date is fixed, from the date of the decision or order, as the case may be; or

(c) be executed by the Central Registrar or any person authorised by him in writing in this behalf, by attachment and sale or sale without attachment of any property of the person or a multi-State co-operative society against whom the decision or order has been made.

86. *Execution of orders of liquidator.*—Every order made by the liquidator under section 81 shall be executed according to the law for the time being in force for the recovery of arrears of land revenue.

87. *Attachment before award.*—(1) Where the Central Registrar is satisfied that a party to any reference made to him under section 74 with intent to defeat or delay the execution of any decision that may be passed thereon be about to—

(a) dispose of the whole or any part of the property ; or

(b) remove the whole or any part of the property from its existing precincts,

the Central Registrar may, unless adequate security is furnished, direct conditional attachment of the said property or such part thereof as he thinks necessary.

(2) The attachment under sub-section (1) shall be executed by a civil court having jurisdiction in the same way as an attachment order passed by itself and shall have the same effect as such order.

88. *Central Registrar or the person authorised by him to be civil court for certain purposes.*—The Central Registrar or any person authorised by him in writing in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale, or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of article 136 of the Schedule to the Limitation Act, 1963 (36 of 1963).

89. *Recovery of sums due to Government.*—(1) All sums due from a multi-State co-operative society, or from an officer or member or past member of a multi-State co-operative society, to the Central Government, or a State Government, including any cost awarded to the Central Government or the State Government, as the case may be, under any provision of this Act, may, on a certificate issued by the Central Registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(2) Sums due from a multi-State co-operative society to the Central Government or a State Government and recoverable under sub-section (1) may be recovered firstly from the property of the society and secondly from the members, past members or the estates of deceased members subject to the limit of their liability :

Provided that the liability of past members and the estate of deceased members shall in all cases be subject to the provisions of section 28.

CHAPTER XI

Appeals and Revision

90. *Appeals.*—(1) Subject to the provisions of section 91, an appeal shall lie under this section against—

(a) an order made by the Central Registrar under sub-section (2) of section 7 refusing to register a multi-State co-operative society ;

(b) an order made by the Central Registrar under sub-section (4) of section 9 refusing to register an amendment of the bye-laws of a multi-State co-operative society ;

(c) a decision of a multi-State co-operative society refusing or deemed to be refusing under sub-section (5) of section 19 to admit any person as a member of the society who is otherwise duly qualified for membership under the bye-laws of the society ;

(d) a decision of a multi-State co-operative society under sub-section (1) of section 21 expelling any of its members ;

(e) a decision of a multi-State co-operative society removing an elected member of a board under section 39 ;

(f) an order made by the Central Registrar under section 49 removing a member from his office ;

(g) an order made by the Central Registrar under section 48 superseding the board of directors of a multi-State co-operative society ;

(h) an order made by the Central Registrar under section 71 apportioning the costs of an inquiry held under section 69 or an inspection made under section 70 ;

(i) an order made under sub-section (2) of section 73 ;

(j) a decision or order made under section 76 ;

(k) an order made by the Central Registrar under section 77 directing the winding up of a multi-State co-operative society ;

(l) an order made by the liquidator of a multi-State co-operative society under section 81 ;

(m) an order under section 87 directing attachment of property before award.

(2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of such decision or order,—

(a) if the decision or order was made by the Central Registrar, to the prescribed authority ;

(b) if the decision was made by a multi-State co-operative society (other than a national co-operative society), or a liquidator of such society, to the officer who is empowered to exercise the powers of the Central Registrar under sub-section (2) of section 4 ; or

(c) if the decision was made by a national co-operative society or a liquidator of such society, to the Central Registrar appointed under sub-section (1) of section 4 .

(3) The appellate authority may, if satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period of sixty days, admit the appeal within such further period not exceeding sixty days as that authority may deem fit.

(4) In disposing of an appeal under this section, the appellate authority may, after giving the parties a reasonable opportunity of making their representations, pass such order thereon as that authority may deem fit.

(5) The decision or order of the appellate authority on appeal shall be final.

91. *No appeal or revision in certain cases.*—Notwithstanding anything contained in this Act, where with the previous sanction in writing of, or on requisition by, the Reserve Bank, a co-operative bank—

(a) is being wound up ; or
(b) in respect of which a scheme of amalgamation or reorganisation is given effect to ; or

(c) in respect of which an order for the supersession of the board and the appointment of an administrator therefor has been made, no appeal, revision or review thereagainst shall lie or be permissible, and the sanction or requisition of the Reserve Bank shall not be liable to be called in question.

92. *Revision*.—(1) Subject to the provisions of section 91 the Central Government may, of its own motion or on an application, call for and examine the records of any proceedings in which no appeal lies to the appellate authority under section 90 for the purpose of satisfying itself as to the legality or propriety of any decision or order made under this Act and if in any case it shall appear to the Central Government that any such decision or order should be modified, annulled or revised or remitted for reconsideration, the Central Government may, after giving the party to be affected thereby a reasonable opportunity of being heard, pass such order thereon as it may deem fit :

Provided that the application to the Central Government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the decision or order to which the application relates was communicated to the applicant :

Provided further that the Central Government may, if satisfied that the appellant was prevented by sufficient cause from making application within the said period of ninety days, admit the application after the expiry of the said period.

(2) The Central Government may suspend the execution of the decision or order pending the exercise of its power under sub-section (1) in respect thereof.

(3) The Central Government may award costs in proceedings under this section to be paid out of the funds of a multi-State co-operative society concerned or by such party to the application for revision as the Central Government may deem fit.

93. *Review*.—(1) The appellate authority under section 90 may, on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit.

Provided that no such application shall be entertained unless the appellate authority is satisfied that there has been a discovery of new and important matter on evidence which after exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason :

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard.

(2) An application for review under sub-section (1) by any party shall be made within thirty days from the date of communication of the order of the appellate authority sought to be reviewed.

94. *Interlocutory orders*.—Where an appeal is made under section 90

or where the Central Government calls for the records of a case under section 92, the appellate authority or the Central Government, as the case may be, may, in order to prevent the ends of justice being defeated, make interlocutory orders, including an order of stay, pending the decision of the appeal or revision as such authority or the Central Government may deem fit.

CHAPTER XII

Societies which become multi-State co-operative societies consequent on reorganisation of States

95. *Co-operative societies functioning immediately before reorganisation of States.*—(1) Where by virtue of the provisions of Part II of the States Reorganisation Act, 1956 (37 of 1956), or any other enactment relating to reorganisation of States, any co-operative society which immediately before the day on which the reorganisation takes place had its objects confined to one State becomes, as from that day, a multi-State co-operative society it shall be deemed to be a multi-State co-operative society registered under the corresponding provisions of this Act and the bye-laws of such society shall, in so far as they are not inconsistent with the provisions of this Act, continue to be in force until altered or rescinded.

(2) If it appears to the Central Registrar or any officer authorised in this behalf by the Central Government (hereafter in this section referred to as the authorised officer) that it is necessary or expedient to reconstitute or reorganise any society referred to in sub-section (1), the Central Registrar or the authorised officer, as the case may be, may, with the previous approval of the Central Government, place before a meeting of the general body of that society, held in such manner as may be prescribed, a scheme for the reconstitution or reorganisation, including proposals regarding—

(a) the formation of new multi-State co-operative societies and the transfer thereto in whole or in part, of the assets and liabilities of that society, or

(b) the transfer, in whole or in part, of the assets and liabilities of that society to any other multi-State co-operative society in existence immediately before the date of that meeting of the general body (hereafter in this section referred to as the existing multi-State co-operative society).

(3) If the scheme is sanctioned by a resolution passed by a majority of the members present at the said meeting, either without modifications or with modifications to which the Central Registrar or the authorised officer agrees, he shall certify the scheme and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law, regulation or bye-laws for the time being in force be binding on all the societies affected by the scheme, as well as the shareholders and creditors of all such societies.

(4) If the scheme is not sanctioned under sub-section (3), the Central Registrar or the authorised officer may refer the scheme to such Judge of the appropriate High Court, as may be nominated in this behalf by the Chief Justice thereof, and the decision of that Judge in regard to the scheme shall be final and shall be binding on all the societies affected by the scheme as well as the shareholders and creditors of all such societies.

Explanation—In this sub-section, “appropriate High Court” means the High Court within the local limits of whose jurisdiction the principal place of business of the multi-State co-operative society is situated.

(5) Notwithstanding anything contained in this section where a scheme under sub-section (2) includes any proposal regarding the transfer of the assets and liabilities of any multi-State co-operative society referred to in clause (b) thereof, the scheme shall not be binding on such multi-State co-operative society or the shareholders and creditors thereof, unless the proposal regarding such transfer is accepted by that multi-State co-operative society by a resolution passed by a majority of the members present at a meeting of its general body.

CHAPTER XIII Offences and Penalties

96. *Offences.*—(1) A multi-State co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees.

(2) Any employer who without sufficient cause, fails to pay to a multi-State co-operative society the amount deducted by him under section 58 within a period of fourteen days from the date on which such deduction is made, shall, without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five hundred rupees.

(3) Any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a multi-State co-operative society of which he is an officer or custodian, to a person entitled under section 49, section 67, section 68 section 69 or section 80 shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing breach, with a further fine which may extend to five hundred rupees for every day during which the breach is continued after conviction for the first such breach.

97. *Cognizance of offences.*—(1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Central Registrar and such sanction shall not be given without giving to the person concerned a reasonable opportunity to represent his case.

CHAPTER XIV Miscellaneous

98. *Copy of Act, rules and bye-laws, etc., to be open to inspection.*—Every multi-State co-operative society shall keep a copy of this Act, the rules and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable times at the registered address of the society.

99. *Power to exempt multi-State co-operative societies from conditions as to registration.*—(1) Notwithstanding anything contained in this Act, the Central Government may, by general or special order, for reasons to be recorded therein, and subject to such conditions, if any, as may be specified therein exempt any multi-State co-operative society or class of such societies from any of the requirement of this Act relating to registration.

(2) (a) The Central Government may, by general or special order and for reasons to be recorded therein,—

(i) exempt any multi-State co-operative society or any class of such societies from any of the provisions of this Act or of the rules ; or

(ii) direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order :

Provided that no order shall be made under sub-clause(ii) so as to prejudice the interests of such society or class of such societies without a reasonable opportunity being given to make representation in the matter.

(b) Every order made under clause (a) shall be published in the Official Gazette.

100. *Liquidator to be public servant*—Any person appointed as liquidator under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

101. *Notice necessary in suits.*—No suit shall be instituted against a multi-State co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of ninety days next after notice in writing has been delivered to the Central Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

102. *Certain Acts not to apply.*—(1) The provisions of the Companies Act, 1956 (1 of 1956) and the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) shall not apply to multi-State co-operative societies.

(2) The multi-State co-operative societies registered or deemed to be registered under the provisions of this Act shall not indulge in monopolistic and restrictive trade practices, as defined in the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969).

103. *Savings of existing multi-State co-operative societies.*—(1) Every multi-State co-operative society existing immediately before the commencement of this Act which has been registered under the Co-operative Societies Act, 1912 (2 of 1912) or under any other Act relating to co-operative societies in force, in any State or in pursuance of the provisions of the Multi-unit Co-operative Societies Act, 1942 (6 of 1942), shall be deemed to be registered under the corresponding provisions of this Act, inconsistent with the provisions of this Act, or the rules, continue to be in force until altered or rescinded.

(2) All appointments, rules and orders made, all notifications and notices issued and all suits and other proceedings instituted under any of

the Acts referred to in sub-section (1) shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively made, issued and instituted under this Act save that an order made cancelling the registration of a multi-State co-operative society shall be deemed, unless the society has already been finally liquidated, to be an order made under section 77 for its being wound up.

104. Power to amend Second Schedule.—(1) If the Central Government is satisfied that any multi-State co-operative society should be designated as a national co-operative society specified in the Second Schedule should be omitted from the said Schedule, it may, by notification, amend the said Schedule so as to include therein such multi-State co-operative society or exclude therefrom such national co-operative society, and thereupon the said Schedule shall be deemed to have been amended accordingly.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

105. Bar of jurisdiction of courts.—(1) Save as otherwise provided in this Act, no court shall have jurisdiction in respect of—

(a) the registration of a multi-State co-operative society or its bye-laws or of an amendment of the bye-laws ;

(b) the removal of board of directors ;

(c) any disputes required under section 74 to be referred to the Central Registrar ; and

(d) and matter concerning the winding up and the dissolution of a multi-State co-operative society.

(2) While a multi-State co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against the liquidator or against the society or any member thereof, except by leave of the Central Registrar and subject to such terms and conditions as he may impose.

(3) Save as otherwise provided in this Act, no decision or order made under this Act shall be questioned in any court.

106. Powers of civil court.—(1) In exercising the functions conferred on him by or under this Act, the Central Registrar, or any other person deciding a dispute under section 76 and the liquidator of a multi-State co-operative society and a person entitled to audit, inspect or hold an inquiry under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining on him oath ;

(b) requiring the discovery and production of any document ;

(c) proof of facts by affidavits ; and

(d) issuing commissions for examination of witnesses.

(2) In the case of an affidavit, any officer appointed by the Central Registrar, or any other person deciding a dispute or the liquidator, as the case may be, may administer oath to the deponent.

107. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Central Registrar or any other person subordinate to him or acting on his authority or against any other person, in respect of anything in good faith done or purporting to have been done under this Act.

108. Opening of branches.—(1) Notwithstanding anything contained to the contrary in any law relating to co-operative societies in force in a State, a multi-State co-operative society, not being a co-operative bank, may open branches or places of business in any place in India.

(2) Where a multi-State co-operative society opens branches or places of business in any State under sub-section (1), the Registrar of Co-operative Societies in such State shall not exercise any jurisdiction in relation to such branches or places of business nor shall call for any returns or information therefrom.

109. Power to make rules.—(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the form to be used, the particulars to be given and the conditions to be complied with in the making of applications under section 6 for the registration of a multi-State co-operative society and the procedure in the matter of such applications ;

(ii) the number of applicants and the manner in which the order of refusal to register a multi-State co-operative society and its bye-laws be communicated under sub-section (2) of section 7 ;

(iii) the manner in which the order of refusal to register any amendment of the bye-laws shall be communicated under sub-section (4) of section 9 and section 18 ;

(iv) the procedure and conditions for change in the extent of the liability of a multi-State co-operative society under section 13 ;

(v) the matters in respect of which a multi-State co-operative society may make bye-laws and the procedure to be followed in making, altering and abrogating bye-laws under section 9 or section 18 and the conditions to be satisfied prior to such making, alteration or abrogation ;

(vi) the conditions to be complied with under section 19 by persons applying for admission as members, for the election and admission of members and the payment to be made and the interest to be acquired before the exercise of the rights of membership ;

(vii) the number of individuals who may be admitted as members of the National Co-operative Union of India Limited, New Delhi as required by section 19 and their qualifications ;

(viii) the withdrawal and expulsion of members and the payments, if any, to be made to members who withdraw or are expelled and the liability of past members or estates of deceased members ;

(ix) the votes of members, as required by section 22 ;

(x) the maximum number of shares of a multi-State co-operative society which may subject to the provisions of section 24, be held by a member ;

(xi) the constitution and powers of a smaller body representing the general body under section 29 ;

(xii) general meeting of the members under section 30, the period within which such meetings be called and the procedure at such meetings and the powers to be exercised by such meetings ;

(xiii) the proportion of individuals and multi-State co-operative

societies in the constitution of the board of director and the general body under section 32 ;

(xiv) the election of members of the boards under section 35 and nomination of members to such boards under section 41, the appointment or election of officers and the powers to be exercised and the duties to be performed by the boards and other officers ;

(xv) the restrictions and conditions subject to which honorarium may be paid under section 38 to the elected chairman or president of the board of directors for services rendered ;

(xvi) the additional measures and acts which may be taken or, as the case may be, done by the board under section 42 ;

(xvii) the number of meetings of the board, the venue of such meetings and the number of committees or sub-committees for purposes of sections 43 and 46 ;

(xviii) the appointment and regulation of work entrusted to person replacing the board in pursuance of section 48 ;

(xix) the constitution of a body of persons under section 50 for the preparation of a list of persons eligible for appointment to the posts of Chief Executives and other management posts in national co-operative societies and the amount of the maximum pay-scale applicable to such posts ;

(xx) the recruitment, remuneration, allowances and other conditions of service of officers and other employees of national co-operative societies under section 50 ;

(xxi) prohibiting a multi-State co-operative society from electing a defaulting member, or a representative of defaulting member society, on its board ;

(xxii) the returns to be submitted by a multi-State co-operative society to the Central Registrar, the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such returns, the levy of expenses of preparing it ;

(xxiii) the persons by whom and the form in which copies of entries in books of multi-State co-operative societies may be certified under section 56 and the charges to be levied for the supply of such copies ;

(xxiv) the terms and conditions on which the Central Government may make share-capital contribution or give financial or other assistance to multi-State co-operative societies under section 59 and the terms and conditions on which the Central Government may guarantee the payment of the principal or interest on debentures issued by multi-State co-operative societies or loans or deposits raised by them ;

(xxv) the procedure to be followed in proceedings before the Central Registrar or other persons deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests, and the levy of expenses relating to such proceedings ;

(xxvi) the mode in which the value of a deceased member's share or interest shall be ascertained and the nomination of a person to whom such share or interest may be paid or transferred ;

(xxvii) the payments to be made and conditions to be complied with by members applying for loans, the period for which any loans

may be made and the maximum amount which may be lent to any members ;

(xxviii) the formation and maintenance of reserve funds and other funds under section 61 and the objects to which such funds may be applied, and the investment of any funds under the control of a multi-State co-operative society under section 62 ;

(xxix) the conditions under which profits may be distributed under section 61 to the members of a multi-State co-operative society and the maximum rate of dividend which may be paid by multi-State co-operative societies ;

(xxx) the prohibitions and restrictions subject to which multi-State co-operative societies may, under section 65 transact business with persons who are not members ;

(xxxi) the accounts and books to be kept by a multi-State co-operative society and the audit of such accounts and the charges, if any, to be made for such audit under section 67 and the periodical publication of a balance-sheet showing the assets and liabilities of a multi-State co-operative society ;

(xxxii) the calculation and writting off of bad debts by multi-State co-operative societies ;

(xxxiii) the appointment of persons for settlement of disputes under section 76 ;

(xxxiv) the procedure to be followed by a liquidator appointed under section 80 in respect of provisions of section 81 ;

(xxxv) the manner in which the surplus assets may be divided amongst the members of the multi-State co-operative socieity under section 82 ;

(xxxvi) the procedure for execution of decisions under section 85 ;

(xxxvii) the procedure to be followed in presenting and disposing of appeals under section 90 ;

(xxxviii) the issue and service of processes and for proof of service thereof ;

(xxxix) the manner of effecting attachment ;

(xl) the custody, preservation and sale of property under attachment ;

(xli) the investigation of claims by persons other than the defaulter to any right or interest in the attached property, and the postponement of sale pending such investigation ;

(xlii) the immediate sale of perishable articles ;

(xliii) the inspection of documents in the office of the Central Registrar or of any other officer or authority and the levy of fees for granting certified copies of the same ;

(xliv) the manner in which funds may be raised by a multi-State co-operative society or a class of multi-State co-operative societies by means of share or debentures of otherwise and the quantum of funds so raised ;

(xlv) the procedure under section 95 for reconstitution and reorganisation of societies which become multi-State co-operative societies consequent on reorganisation of a State ;

(xlv) the method of communicating or publishing any decision or order required to be communicated or published under this Act or the rules ;

(xlvij) the manner and the periodicity of returns of pending cases of registration of multi-State co-operative societies and amendments of bye-laws to be sent by the Central Registrar to the Central Government ;

(xlvii) any other matter which is required to be, or may be prescribed ;

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

110. *Repeal.*—The Multi-unit Co-operative Societies Act, 1942 (6 of 1942), is hereby repealed.

THE FIRST SCHEDULE

[See Section 3(f)]

Co-operative Principles

1. Membership of a multi-State co-operative society (hereafter in this Schedule referred to as the society) should be voluntary and open without any social, political, or religious discrimination, to all persons who can make use of its services.

2. In a society other than that with institutional membership, individual member should enjoy equal rights of voting—one member, one vote.

3. (i) Surplus or savings, if any, arising out of the operations of the society belong to the society as a whole, and no individual member has a claim to the surplus.

(ii) The surplus should be utilised for all or any of the following purposes, namely :—

(a) providing for development of the business of the society ;

(b) providing services for the common enjoyment of members ;

(c) distribution among the members in proportion to their transactions with the society.

4. The society should undertake education of its members, office-bearers and employees and the general public regarding the principles and practice of co-operation.

5. The society should actively co-operate in every practical way with other co-operative societies at local, national or international levels.

6. The share capital of a society shall receive strictly limited rate of interest (that is to say dividend).

7. The affairs of a society should be administered by the management in accordance with democratically expressed will of the members.

8. The management of the society is accountable to its own members.

THE SECOND SCHEDULE

[See sections 3 (m) and 104]

List of national co-operative societies

1. National Co-operative Land Development Banks Federation Limited, Hyderabad.
2. National Federation of State Co-operation Banks Limited, Bombay.
3. National Co-operative Union of India Limited, New Delhi.
4. National Agricultural Co-operative Marketing Federation of India Limited, New Delhi.
5. National Co-operative Consumers' Federation of India Limited, New Delhi.
6. National Federation of Co-operative Sugar Factories Limited, New Delhi.
7. National Federation of Industrial Co-operatives Limited, New Delhi.
8. National Co-operative Housing Federation Limited, New Delhi.
9. Indian Farmers' Fertiliser Co-operative Limited, New Delhi.
10. All India Federation of Co-operative Spinning Mills Limited, Bombay.
11. All India Industrial Co-operative Banks' Federation Limited, Bangalore.
12. National Co-operative Dairy Federation of India Limited, New Delhi.
13. Petrofils Co-operative Limited, New Delhi.
14. National Heavy Engineering Co-operative Limited, New Delhi.
15. The All India Handloom Fabrics Marketing Co-operative Society Limited, Bombay.
16. The National Federation of Urban Co-operative Banks and Credit Societies Limited, New Delhi.
17. Krishak Bharati Co-operative Limited, New Delhi.
18. National Federation of Fishermen's Co-operative Limited, Bombay.
19. National Federation of Labour Co-operatives Limited, New Delhi.
20. National Co-operative Tobacco Growers' Federation Limited,

THE PUNJAB APPROPRIATION (NO. 2) ACT, 1984

The following Act of the Parliament received the assent of the President on the 10th August, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 60, dated August 14, 1984.

INDIAN PARLIAMENT ACT NO. 46 OF 1984

[10th August, 1984]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1984-85.

Be it enacted by the Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the Punjab Appropriation (No. 2) of 1984.

(Text of the Act omitted.)

THE PONDICHERRY APPROPRIATION (NO. 2) ACT, 1984

The following Act of Parliament received the assent of the President on the 10th August, 1984, and was published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 61, dated August 14, 1984.

INDIAN PARLIAMENT ACT NO. 47 OF 1984

[10th August, 1984]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year, 1984-85

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Pondicherry Appropriation (No. 2) Act, 1984.

(Text of the Act omitted)

THE APPROPRIATION (NO. 4) ACT, 1984

The following Act of Parliament received the assent of the President on the 16th August, 1984, and was published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 64, dated August 17, 1984.

INDIAN PARLIAMENT ACT NO. 50 OF 1984

[16th August, 1984]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of financial year 1984-85.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (No. 4) Act, 1984.

(Text of the Act omitted)

THE FAMILY COURTS ACT, 1984

The following Act of Parliament received the assent of the President on the 14th September, 1984, and was published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 83, dated September 14, 1984.

INDIAN PARLIAMENT ACT NO. 66 OF 1984

[14th September, 1984]

An Act to provide for establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Family Courts Act, 1984.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

"STATEMENT OF OBJECTS AND REASONS"

Several associations of women, other organisations and individuals have urged, from time to time, that Family Courts be set up for the settlement of family disputes, where emphasis should be laid on conciliation and achieving socially desirable results and adherence to rigid rules of procedure and evidence should be eliminated. The Law Commission in its 59th report (1974) had also stressed that in dealing with disputes concerning the family the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. The Code of Civil Procedure was amended in 1976 to providing for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use has been made by the courts in adopting this conciliatory procedure and the courts continue to deal with family disputes in the same manner as other civil matters and the same adversary approach prevails. The need was, therefore, felt, in the public interest, to establish Family Courts for speedy settlement of family disputes.

2. The Bill, *inter alia*, seeks to :—

(a) provide for establishment of Family Courts by the State Governments ;

(b) make it obligatory on the State Governments to set up a Family Court in every city or town with a population exceeding one million.

(c) enable the State Governments to set up, such courts in areas other than those specified in (b) above ;

(d) exclusively provide within the jurisdiction of the Family Courts the matters relating to :—

(i) matrimonial relief, including nullity of marriage, judicial separation, divorce, restitution of conjugal rights, or declaration as to the validity of marriage or as to the matrimonial status of any person ;

(ii) the property of the spouse or of either of them ;

(iii) declaration as to the legitimacy of any person ;

(iv) guardianship of a person or the custody of any minor ;

(v) maintenance, including proceedings under Chapter IX of the Code of Criminal Procedure ;

(e) make it obligatory on the part of the Family Court to endeavour, in the first instance to effect of a reconciliation or a settlement between the parties to a family dispute. During this stage, the proceedings will be informal and rigid rules of procedure shall not apply ;

(f) provide for the association of social welfare agencies, counsellors, etc., during conciliation stage and also to secure the service of medical and welfare experts ;

(g) provide that the parties to a dispute before a Family Court shall not be entitled, as of right, to be represented by legal practitioner. However, the Court may, in the interest of justice, seek assistance of a legal expert as *amicus curiae* ;

(h) simplify the rules of evidence and procedure so as to enable a Family Court to deal effectively with a dispute ;

(i) provide for only one right of appeal which shall lie to the High Court.

[Vide Statement of Object and Reasons published in the Gazette of India, Extraordinary, Part II, Section 2, No. 47, dated August 21, 1984.

Editor.]

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Judge” means the Judge or, as the case may be, the Principal Judge, Additional Principal Judge or other Judge of a Family Court ;

(b) “notification” means a notification published in the Official Gazette ;

(c) “prescribed” means prescribed by rules made under this Act ;

(d) “Family Court” means a Family Court established under section 3 ;

(e) all other words and expressions used but not defined in this Act and defined in the Code of Civil Procedure, 1908 (5 of 1908) shall have the meanings respectively assigned to them in that Code.

CHAPTER II

Family Courts

3. *Establishment of Family Courts.*—(1) For the purpose of exercising the jurisdiction and powers conferred on a Family Court by this Act, the State Government, after consultation with the High Court, and by notification,—

(a) shall, as soon as may be after the commencement of this Act, establish for every area in the State comprising a city or town whose population exceeds one million, a Family Court ;

(b) may establish Family Courts for such other areas in the State as it may deem necessary.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of Family Court shall extend and may, at any time, increase, reduce or alter such limits.

4. *Appointment of Judges.*—(1) The State Government may, with the concurrence of the High Court, appoint one or more persons to be the Judge or Judges of a Family Court.

(2) When a Family Court consists of more than one Judge,—

(a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force ;

(b) the State Government may, with the concurrence of the High Court, appoint any of the Judges to be the Principal Judge and any other Judge to be the Additional Principal Judge ;

(c) the Principal Judge may, from time to time, make such arrangements as he may deem fit for the distribution of the business of the Court among the various Judges thereof ;

(d) the Additional Principal Judge may exercise the powers of the Principal Judge in the event of any vacancy in the office of the Principal Judge or when the Principal Judge is unable to discharge his function owing to absence, illness or any other cause.

(3) A person shall not be qualified for appointment as a Judge unless he—

(a) has for at least seven years held a judicial office in India or the office of a member of a tribunal or any post under the Union or a State requiring special knowledge of law ; or

(b) has for at least seven years, been an advocate of a High Court or of two or more such Courts in succession ; or

(c) possesses such other qualifications as the Central Government may, with the concurrence of the Chief Justice of India, prescribe.

(4) In selecting persons for appointment as Judges,—

(a) every endeavour shall be made to ensure that persons committed to the need to protect and preserve the institution of marriage and to promote the welfare of children qualified by reason of their experience and expertise to promote the settlement of disputes by conciliation and counselling are selected ; and

(b) preference shall be given to women.

(5) No person shall be appointed as, or hold the office of, a Judge of a Family Court after he has attained the age of sixty-two years.

(6) The salary or honorarium and other allowances payable to and the other terms and conditions of service of, a Judge shall be such as the State Government may, in consultation with the High Court, prescribe.

5. *Association of social welfare agencies etc.*—The State Government may in, consultation with the High Court, provide, by rules, for the association in such manner and for such purposes and subject to such conditions as may be specified in the rules, with a Family Court of—

(a) institutions or organisations engaged in social welfare or the representatives thereof ;

(b) persons professionally engaged in promoting the welfare of the family :—

(c) persons working in the field of social welfare ; and

(d) any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.

6. *Counsellors, officers and other employees of Family Courts.*—(1) The State Government shall, in consultation with the High Court, determine the number and categories of counsellors, officers and other employees required to assist a Family Court in the discharge of its functions and provide the Family Court with such counsellors, officers and other employees as it may think fit.

(2) The terms and conditions of association of the counsellors and the terms and conditions of service of the officers and other employees, referred to in sub-section (1), shall be such as may be specified by rules made by the State Government.

CHAPTER III Jurisdiction

7. *Jurisdiction.*—(1) Subject to the other provisions of this Act, a Family Court shall—

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation ; and

(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate civil court for the area for which the jurisdiction of the Family Court extends.

Explanation.—The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely :—

(a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage ;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person ;

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them.

(d) a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship ;

(e) a suit or proceeding for a declaration as to the legitimacy of any person ;

(f) a suit or proceeding of maintenance ;

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974) ; and

(b) such other jurisdiction as may be conferred on it may by any other enactment.

8 Exclusion of jurisdiction and pending proceedings.—Where a Family Court has been established for any area,—

(a) no district court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the Explanation to that sub-section ;

(b) no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) ;

(c) every suit or proceeding of the nature referred to in the Explanation to sub-section (i) of section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974),—

(i) which is pending immediately before the establishment of such Family Court before any district court or subordinate court referred to in that sub-section or, as the case may be, before any magistrate under the said Code ; and

(ii) which would have been required to be instituted or taken before or by such Family Court if, before the date on which suit or proceeding was instituted or taken, this Act had come into force and such Family Court had been established, shall stand transferred to such Family Court on the date on which it is established.

CHAPTER IV Procedure

9. *Duty of Family Court to make efforts for settlement.*—(1) In every suit or proceeding, endeavour shall be made by the Family Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit for proceeding and for this purpose a Family Court may, subject to any rules made by the High Court, follow such procedure as it may deem fit.

(2) If, in any suit or proceeding, at any stage, it appears to the Family Court that there is a reasonable possibility of a settlement between the parties, the Family Court may adjourn the proceeding for such period as it think fit to enable attempts to be made to effect such a settlement.

(3) The power conferred by sub-section (2) shall be in addition to and not in derogation of, any other power of the Family Court to adjourn the proceedings.

10. *Procedure generally.*—(1) Subject to the other provisions of this Act and the rules, the provisions of the Code of Civil Procedure, 1908 (5 of 1908) and of any other law for the time being in force shall apply to the suits and proceedings (other than the proceedings under Chapter IX of the Code of Criminal Procedure, 1973) (2 of 1974) before a Family Court and for the purposes of the said provisions of the Code, a Family Court shall be deemed to be a civil court and shall have all the powers of such court.

(2) Subject to the other provisions of this Act and the rules, and provisions of the Code of Criminal Procedure, 1973(2 of 1974), or the rules made thereunder, shall apply to the proceedings under Chapter IX of that Code before a Family Court.

(3) Nothing in sub-section (1) or sub-section (2) shall prevent a Family Court from laying down its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceedings or at the truth of the facts alleged by the one Party and denied by the other.

11. *Proceedings to be held in camera.*—In every suit or proceedings to which this Act applies, the proceedings may be held *in camera* if the Family Court so desires and shall be so held if either party so desires.

12. *Assistance of medical and welfare experts.*—In every suit or proceedings, it shall be open to a Family Court to secure the services of a medical expert or such person (preferably a woman where available), whether related to the parties or not, including a person professionally engaged in promoting the welfare of the family as the Court may think fit, for the purposes of assisting the Family Court in discharging the functions imposed by this Act.

13. *Right to legal representation.*—Notwithstanding anything contained in any law, no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner :

Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert as *amicus curiae*.

14. *Application of Indian Evidence Act, 1872.*—A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).

15. *Record of Oral evidence*—In suits or proceedings before a Family Court, it shall not be necessary to record the evidence of witnesses at length, but the Judge, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the witness and the Judge and shall form part of the record.

16. *Evidence of formal character on affidavit.*—(1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Family Court.

(2) The Family Court may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding summon and examine any such person as to the facts contained in his affidavit.

17. *Judgment.*—Judgment of a Family Court shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

18. *Execution of decrees and orders.*—(1) A decree or an order (other than an order under Chapter IX of the Code of Criminal Procedure, 1973) (2 of 1974) passed by a Family Court shall have the same force and effect as a decree or order of civil court and shall be executed, in the same manner as is prescribed by the Code of Civil Procedure, 1908 (5 of 1908) for the execution of decrees and orders.

(2) An order passed by a Family Court under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) shall be executed in the manner prescribed for the execution of such order by that Code.

(3) A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary civil court to which it is sent for execution.

CHAPTER V

Appeals

19. *Appeal.*—(1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

(4) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, order or decree of a Family Court.

(5) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.

CHAPTER VI

Miscellaneous

20. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

21. *Power of High Court to make rules.*—(1) The High Court may, by notification in the Official Gazette, make such rules as it may deem necessary for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) normal working hours of Family Courts and holding of sittings of Family Courts on holidays and outside normal working hours ;

(b) holding of sittings of Family Courts at places other than their ordinary places of sitting ;

(c) effects which may be made by, and the procedure which may be followed by, a Family Court for assisting and persuading parties to arrive at a settlement.

22. *Power of the Central Government to make rules.*—(1) The Central Government may, with the concurrence of the Chief Justice of India, by notification, make rules prescribing the other qualifications for appointment of a Judge referred to in clause (c) of sub-section (3) of section 4.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

23. *Power of the State Government to make rules.*—(1) The State Government may, after consultation with the High Court, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely :—

(a) the salary or honorarium and other allowances payable to, and the other terms and conditions of Judges under sub-section (6) of section 4 ;

(b) the terms and conditions of association of counsellors and the terms and conditions of service of the officers and other employees referred to in section 6 ;

(c) payment of fees and expenses (including travelling expenses) of medical and other experts and other persons referred to in section 12 out of the revenues of the State Government and the scales of such fees and expenses ;

(d) payment of fees and expenses to legal practitioners appointed under section 13 *asamnicus curiae* out of the revenues of the State Government and the scales of such fees and expenses ;

(e) any other matter which is required to be, or may be, prescribed or provided for by rules.

(3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

THE ESTATE DUTY (AMENDMENT) ACT, 1984

The following Act of the Parliament received the assent of the President on the 23rd August, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 67, dated August 23, 1985.

INDIAN PARLIAMENT ACT NO. 53 OF 1984

An Act further to amend the Estate Duty Act, 1953.

[23rd August, 1984]

1. *Short title.*—This Act may be called the Estate Duty (Amendment) Act, 1984.

"STATEMENT OF OBJECTS AND REASONS

This Act seeks to amend the Estate Duty Act, 1953, mainly with a view to excluding agricultural lands from the levy of estate duty.

2. One of the amendments proposed accordingly seeks to provide that the Act shall cease to apply to the levy of the estate duty in respect of agricultural land.

3. Another amendment seeks to omit clause (b) of sub-section (1) of section 34 of the Act, which provides for aggregation, for the purpose of determining the rate of estate duty, of agricultural land, situate in any State in respect of which estate duty under the Act is not leviable.

4. Under another amendment, the rule-laying formula contained in section 85 of the Act is being revised to conform to the model formula recommended by the Committees on Subordinate Legislation of both the Houses of Parliament.

5. By another amendment, it is proposed to provide that all the proposed amendments will come into force in the State of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa and Tamil Nadu and in all the Union territories on the expiration of two months from the date on which the Act receives the assent of the President ; and in respect of the other States, on the expiration of four months from the date of adoption of the proposals for such amendments or the amendments, as the case may be, by those States under clause (1) of article 252 of the Constitution."

[Vide Statement of Objects and Reason published in the *Gazette of India*, Extraordinary, Part II, Section 2, No. 35, dated July 24, 1984

Editor.]

2. *Amendment of section 5A.*—In section 5A of the Estate Duty Act, 1953 (34 of 1953) (hereinafter referred to as the principal Act), after sub-section (2B), the following sub-section shall be inserted, namely :—

"(2C) The amendments made to this Act by section 3 to 5 of the Estate Duty (Amendment) Act, 1984, shall apply to estate duty in respect of agricultural lands situate in the territories comprised in—

(2) the State of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa and Tamil Nadu and all the Union territories, on the expiration of two months from the date on which the said Act received the assent of the President : and

(b) any other States in respect whereof resolutions have been passed by the Legislatures of those States adopting the proposals with respect to such amendments or said Amendments, as the case may be, under clause (1) of article 252 of the Constitution, on the expiration of four months from the date of such adoption."

3 *Insertion of new section 5B.*—After section 5A of the principal Act, the following sub-section shall be inserted, namely :—

"5B *Act to cease to apply to estate duty in respect of agricultural land.*—Notwithstanding anything contained in section 5, this Act shall cease to apply to the levy of estate duty in respect of agricultural land."

4. *Amendment of section 34*—In section 34 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), the word "and" shall be inserted at the end ;

(ii) clause (b) shall be omitted.

(b) in the Explanation below sub-section (2), clause (ii), shall be omitted.

5. *Amendment of section 85.*—In section 85 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

THE BANKING LAWS (AMENDMENT) ACT, 1984

The following Act of the Parliament received the assent of the President on the 11th September, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 78, date September 11, 1984.

INDIAN PARLIAMENT ACT NO. 64 OF 1984

An Act further to amend the State Bank of India Act, 1945, the State Bank of India (Subsidiary Bank) Act, 1959, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Banking Laws (Amendment) Act, 1984.

2. *Insertion of new section 43A in Act 23 of 1955.*—In the State Bank of India Act, 1955, after section 43, the following section shall be inserted, namely :—

"43A. *Bonus.*—(1) No officer, adviser or other employee other than

an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965] (21 of 1965) of the State Bank shall be entitled to be paid any bonus.

(2) No employee of the State Bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965), shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument."

3. *Insertion of new section 50A in Act 38 of 1959*.—In the State Bank of India (Subsidiary Banks) Act, 1959, after section 50, the following section shall be inserted, namely :—

"50A. *Bonus*.—(1) No officer, adviser or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965)] of a subsidiary bank shall be entitled to be paid any bonus.

(2) No employee of a subsidiary bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965), shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947, (14 of 1947), or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument."

4. *Insertion of new section 12A in Act 5 of 1970*.—In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, after section 12, the following section shall be inserted, namely :—

"12A. *Bonus*.—(1) No officer or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965)] of a corresponding new bank shall be entitled to be paid any bonus.

(2) No employee of a corresponding new bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965), shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument."

5. *Insertion of new section 12A in Act 40 of 1980*.—In the Banking companies (Acquisition and Transfer of Undertakings) Act, 1980, after section 12, the following section shall be inserted, namely :—

"12A *Bonus* —(1) No officer or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965)] of a corresponding new bank shall be entitled to be paid any bonus.

(2) No employee of a corresponding new bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965), shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument."

THE HOOGHLY DOKCING AND ENGINEERING COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDER- TAKINGS) ACT, 1984

The following Act of the Parliament received the assent of the President on the 23rd August, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 69, dated August 23, 1984.

INDIAN PARLIAMENT ACT NO. 55 OF 1984

[23rd August, 1984]

An Act to provide the acquisition and transfer of the undertakings of the Hooghly Docking and Engineering Company Limited with a view to securing the better utilisation of the available infrastructure thereof, to modernise and increase the capacity for shipbuilding and ship repairing so as to reduce the import of ship, vessels and craft and to augment the production of grey iron, non-ferrous and alloy castings by the said undertakings so as to subserve the interests of the general public by ensuring the continued supply of the said articles which are essential to the needs of the economy of the country, and for matters connected therewith and incidental thereto.

Whereas the Hooghly Docking and Engineering Company Limited is, through its undertakings, engaged in shipbuilding, ship repairing general engineering and other activities ;

And Whereas the Company has the capacity and infrastructure to effect an increase in the country's capacity to manufacture ships and other vessels and craft ;

And Whereas an increase in the production of such vessels and craft would reduce the need of the country to make imports of such vessels and craft and would thereby enable the country to save foreign exchange ;

And Whereas the Company is also engaged in the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country ;

And Whereas the Company had been suffering heavy losses for a number of years mainly due to lack of fresh investment and modernisation ;

And Whereas further investment of substantial sums of money is needed to run and modernise the undertakings of the Company but in view of the serious adverse financial condition of the Company it is not in a position to secure such investment ;

And Whereas the liquidation of the Company, by reason of its inability to pay its debts, would prejudicially affect the country's capacity to manufacture such ships, vessels and craft and would thereby be prejudicial to the public interest ;

And Whereas in view of the position aforesaid it is necessary to acquire the undertakings of the said Company to enable the Central Government to make necessary investments for securing the proper utilisation of the available facilities for shipbuilding and ship repairing (including the production of vessels and craft) and also for the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country ;

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the **Hoghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.**

(2) It shall be deemed to have come into force on the 28th day of June, 1984.

(Text of the Act omitted—Editor)

THE BENGAL IMMUNITY COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1984.

The following Act of the Parliament received the assent of the President on the 29th August, 1984 and was published in the *Gazette of India*, (Ext), Part II, Section 1, No. 72-A dated August 31, 1984.

INDIAN PARLIAMENT ACT NO. 57 OF 1984

[29th August, 1984]

An Act to provide for the acquisition and transfer, in the public interest, of the undertakings of Messrs. Bengal Immunity Company Limited, and for matters connected therewith or incidental thereto.

Whereas Messrs. Bengal Immunity Company Limited were engaged in the production and distribution of articles specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951), namely, chemicals (other than fertilizers), drugs and pharmaceuticals which are essential to the needs of the general public ;

And Whereas the Central Government, being of opinion, after an investigation into the affairs of the Company, that the affairs of the Company have been managed in a manner highly detrimental to the public interest, had authorised, under section 18A of the Industries (Development and Regulation) Act, 1951 (65 of 1951), a body of persons to take over the management of the Company ;

And Whereas for the purpose of reconstructing and rehabilitating the undertakings owned by the Company so as to subserve the interests of the general public by the augmentation of production and distribution of different varieties of chemicals (other than fertilizers), drugs and pharmaceuticals which are essential to the needs of the general public and to secure

the continued supply thereof, it is necessary to acquire the undertakings of the Company ;

Be it enacted by Parliament in the Thirty-fifth Year of Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the **Bengal Immunity Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.**

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

(Test of the Act omitted—Editor)

THE TAXATION LAWS (AMENDMENT) ACT, 1984.

The following Act of the Parliament received the assent of the President on the 14th September, 1984, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 84, dated September 14, 1984.

INDIAN PARLIAMENT ACT NO. 67 OF 1984

[14th September, 1984]

An Act further to amend the Income-tax Act, 1961, the wealth-tax Act, 1957, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1964, the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974, and the Interest-tax Act, 1974.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the **Taxation Laws (Amendment) Act, 1984.**

(2) Section 84 of this Act shall come into force on the 1st day of October, 1984, save as otherwise provided, the remaining provisions of this Act shall come into force on the 1st day of April, 1985.

“STATEMENT OBJECTS AND REASONS

This Act purposes to amend the Income-tax, Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1964, the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 and and the Interest-tax Act, 1974. A number of proposals relating to the amendment to these enactments have been formulated on the basis of the recommendations made by the Economic Administrations Reforms Commission, the Direct Tax Laws Committee, the Public Accounts Committee and the Committee on subordinate Legislation. Some of the other amendments have been sponsored on the basis of suggestions received from various other quarters. Difficulties arising in the operation of some of the provisions of these enactments have also been taken into account in formulating these proposals.

2. These amendments are intended mainly to streamline procedures in the interest of better work management, avoid inconvenience to tax payers, reduce litigation, remove certain anomalies in, and rationalise some of the provisions of, those enactments and counteract tax avoidance and tax evasion.”

[Vide Statement of Object and Reasons published in the Gazette of India, Extraordinary, Part II, Section 1, No. 48, dated August 21, 1984.

Editor.]

CHAPTER II

Amendments to the Income-tax Act, 1961

2. *Amendment of section 2.*—In section 2 of the Income-tax Act, 1961 (hereinafter in this Chapter referred to as the Income-tax Act), for clause (47), the following clause shall be substituted, namely :—

“(47) “transfer”, in relation to a capital asset, includes—
 (i) the sale, exchange or relinquishment of the asset ; or
 (ii) the extinguishment of any rights therein ; or
 (iii) the compulsory acquisition thereof under any law ; or
 (iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment;”

3. *Amendment of section 9.*—In section 9 of the Income-tax Act, in sub-section (1), in the Explanation to clause (i), after clause (c), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely :—

“(d) in the case of a non-resident, being—
 (1) an individual who is not a citizen of India ; or
 (2) a firm which does not have any partner who is a citizen of India, or who is resident in India ; or
 (3) a company which does not have any shareholder who is a citizen of India or who is resident in India,
 no income shall be deemed to accrue or arise in India to such individual firm or company through or from operations which are confined to the shooting of any cinematograph film in India;”

4. *Amendment of section 10.*—In section 10 of the Income-tax Act—

(a) after clause (i), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely :—

“(5A) in the case of an individual who is not a citizen of India and is a non-resident, who comes to India solely in connection with the shooting of a cinematograph film in India by the individual, firm or company referred to in clause (d) of the Explanation to clause (i) of sub-section (1) of section 9, any remuneration received by him for rendering any service in connection with such shooting;”

(b) in clause (10AA) for the words “on superannuation”, wherever they occur, the words “whether on superannuation” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978 ;

(c) in clause (13A), the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this clause apply in a case where—

(a) the residential accommodation occupied by the assessee is owned by him ; or

(b) the assessee has not actually incurred expenditure on payment

of rent (by whatever name called) in respect of the residential accommodation occupied by him ;”.

5. *Amendment of section 13.*—In section 13 of the Income-tax Act, in sub-section (3), in clause (b), for the words “five thousand rupees”, the words “twenty-five thousand rupees” shall be substituted.

6. *Amendment of section 16.*—In section 16 of the Income-tax Act in clause (i), after the proviso, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely :—

Explanation.—For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause ;”.

7. *Amendment of section 17.*—In section 17 of the Income-tax Act,—

(i) in clause (1), after sub-clause (v), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1978, namely :—

“(va) any payment received by an employee in respect of any period of leave not availed of by him ;”;

(ii) in clause (2),—

(a) in sub-clause (iv), the word “and” shall be omitted ;

(b) in sub-clause (v), the word “and” shall be inserted at the end ;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely :—

“(vi) where the employer has advanced any loan to the employee for the purpose of building a house or purchasing a site or a house and a site or for purchasing a motor car, and either no interest is charged by the employer on the amount of such loan or interest is charged at a rate lower than the rate of interest which the Central Government may, having regard to the rate of interest charged by it from its employees on loans for such purpose granted to them, specify in this behalf by notification in the Official Gazette, an amount equal to,—

(a) in a case where such loan is advanced without charging any interest, the interest calculated in the prescribed manner on such loan at the rate so specified ;

(b) in a case where such loan is advanced by charging interest at a rate lower than the rate so specified, the difference between the interest calculated in the prescribed manner on such loan at the rate so specified and the interest charged by the employer :

Provided that this sub-clause shall not apply in the case of—

(1) an employee of the Central Government or any State Government ; or

(2) an employee, not being an employee referred to in paragraph (a) or paragraph (b) of sub-clause (iii), whose income under the head “Salaries”, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees ;

8. *Amendment of section 23.*—In section 23 of the Income-tax Act, in sub-section (1),—

(a) for the first proviso, the following proviso shall be substituted, namely :—

“Provided that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall to the extent such taxes are borne by the owner, be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him :”;

(b) in the second proviso, the words, brackets and letters “so, however, that the income in respect of any residential unit referred to in clause (a) or clause (b) or clause (c) or clause (d) is in no case a loss” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984 ;

(c) the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely :—

“*Explanation 2.*—For the removal of doubts, it is hereby declared that where a deduction in respect of any taxes referred to in the first proviso to this sub-section is allowed in determining the annual value of the property in respect of any previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any earlier assessment year); no deduction shall be allowed under the first proviso in determining the annual value of the property in respect of the previous year in which such taxes are actually paid by the owner.”.

9. *Insertion of new section 25A.*—After section 25 of the Income-tax Act, the following section shall be inserted, namely :—

“25A. *Special provision for cases where unrealised rent allowed as deduction is realised subsequently.*—Where a deduction has been made under clause (x) of sub-section (1) of section 24 in the assessment for any year in respect of rent from property let to a tenant which the assessee cannot realise and subsequently during any previous year the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head “Income from house property” and accordingly charged to income-tax (without making any deduction under section 23 or section 24) as the income of that previous year, whether the assessee is the owner of that property in that year or not.”.

10. *Amendment of section 40.*—In section 40 of the Income-tax Act, after clause (b), the following Explanations shall be inserted, namely :—

Explanation 1.—Where interest is paid by a firm to any partner of the firm who has also paid interest to the firm, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the firm to the partner exceeds the payment of interest by the partner to the firm.

Explanation 2.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as “partner in a representative capacity” and “person so represented” respectively),—

(i) interest paid by the firm to such individual or by such individual to firm, otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause ;

(ii) interest paid by the firm to such individual or by such individual to the firm as partner in a representative capacity and interest paid by the firm to the person so represented or by the person so represented to the firm, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a partner in a firm, otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

11. *Amendment of section 40A.*—In section 40A of the Income-tax Act, in sub-section (5), in clause (b) of Explanation 2,—

(a) in sub-clause (iv), the word “and” shall be omitted ;

(b) in sub-clause (v), for the words “an annuity”, the words “an annuity ; and” shall be substituted ;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely :—

“(vi) the amount treated as a perquisite under sub-clause (vi) of clause (2) of section 17.”.

12. *Amendment of section 45.*—In section 45 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely :—

“(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as, stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.”.

13 *Insertion of new section 47A.*—After section 47 of the Income-tax Act, the following section shall be inserted, namely :—

‘47A. *Withdrawal of exemption in certain cases.*—Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47,—

(i) such capital asset is converted by the transfer company into, or is treated by it as, stock-in-trade of its business ; or

(ii) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (iv) or, as the case may be, clause (v) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head “Capital gains” of the previous year in which such transfer took place.’.

14. *Amendment of section 49.*—In section 49 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely :—

“(3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47 is deemed to be income chargeable under the head “Capital gains” by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee company shall be the cost for which asset was acquired by it.”.

15. *Substitution of new section 53.*—For section 53 of the Income-tax Act, the following section shall be substituted, namely :—

“53. *Exemption of capital gains from a residential houses.*—Notwithstanding anything contained in section 45, where in the case of an assessee being an individual, the capital gain arises from the transfer of a capital asset (other than a short-term capital asset) being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head “Income from house property,” the capital gain arising from such transfer shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) in a case where the full value of the consideration received or accruing as a result of the transfer of such capital asset does not exceed two hundred thousand rupees, the whole of the capital gain shall not be charged under section 45 ;

(b) in a case where the full value of such consideration exceeds two hundred thousand rupees, so much of the capital gain as bears to the whole of the capital gain the same proportion as the amount of two hundred thousand rupees bears to such consideration shall not be charged under section 45 :

Provided that nothing contained in this section shall apply to a case where the assessee owns on the date of such transfer any other residential house.”.

16. *Amendment of section 54E.*—In Section 54E of the Income-tax Act, in sub-section (1) after the proviso and before Explanation 1, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely :—

“Provided further that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in this sub-section shall, in relation to so much of such compensation as it not received on the date of the transfer, be reckoned from the date immediately following the date on which such compensation is received by the assessee.”.

17. *Amendment of section 64.*—In section 64 of the Income-tax Act, in sub-section (1),—

(a) in clause (vi), the word “and” shall be omitted ;

(a) in clause (vii), for the words “or both”, the words “or both; and” shall be substituted ;

(c) after clause (vii), the following clause shall be inserted, namely :—

“(viii) to any person or association of persons from assets transferred directly or indirectly on or after the after the 1st day of June, 1973, otherwise than for consideration, to the person or association of persons by such

individual to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife or son's minor child or both."

18. *Amendment of section 80.*—In section 80 of the Income-tax Act, for the words and figures "under section 139", the words, brackets and figures "within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer" shall be substituted.

19. *Amendment of section 80C.*—In section 80C of the Income-tax Act, in sub-section (2),—

(i) in clause (g), for the words "consisting only of" the words "consisting in either case, only of" shall be substituted with effect from the 1st day of April, 1971 ;

(ii) in clause (h), for the words "or an association of persons or a body of individuals consisting only of", the words "or, where the assessee is an association of persons or a body of individuals consisting, in either case, only of" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1983.

20. *Amendment of section 80CC.*—In section 80CC of the Income-tax Act, in sub-section (1), in clause (c), for the words "consisting only of", the words "consisting, in either case, only of" shall be substituted and shall be deemed to have been substituted with effect from the 1st day April, 1978.

21. *Amendment of Section 80L.*—In section 80L of the Income-tax Act,—

(a) in sub-section (1), in clause (c), for the words "consisting only of", the words "consisting, in either case, only of" shall be substituted and shall be deemed to have been substituted with the effect from the 1st day April, 1972 ;

(b) after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely :—

"(3) For the removal of doubts, it is hereby declared that where the income referred to in sub-section (1) is derived from any asset held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under the said sub-section in respect of such income in computing the total income of any partner of the firm or any member of the association of body."

22. *Amendment of section 130.*—In section 130 of the Income-tax Act, in sub-section (2) for the word and figures "sections 253", the word and figures "sections 132, 253" shall be substituted with effect from the 1st day of October, 1984,—

23. *Amendment of section 132.*—In section 132 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (5), for the words "ninety days", the words "one hundred and twenty days" shall be substituted ;

(b) in sub-section (11), for the words and brackets "such authority, as may be notified in this behalf by the Central Government in the Official Gazette (hereinafter in this section referred to as the notified authority)", the words "the Commissioner" shall be substituted ;

(c) after sub-section (11), the following sub-section shall be inserted, namely :—

“(11A) Every application referred to in sub-section (11) which is pending immediately before the 1st day October, 1984, before an authority notified under that sub-section as it stood immediately before that day shall stand transferred on that day to the Commissioner, and the Commissioner may proceed with such application from the stage at which it was on that day :

Provided that the applicant may demand that before proceeding further with the application, he be re-heard.”;

(d) in sub-section (12),—

(i) for the words “the notified authority”, the words “the Commissioner” shall be substituted ;

(ii) for the words “as it thinks fit” the words “as it or he thinks fit” shall be substituted ;

(e) in Explanation 1, for the words “ninety days”, the words “one hundred and twenty days” shall be substituted.

24. *Amendment of sections 132B, 139, 201, 213 to 217, 220, 243, 244 and 269K and Second Schedule.*—In section 132B, section 139, sections 201, section 213 to 217, section 220, section 243, section 244 and 296K of the Income-tax Act and in rule 60 of the Second Schedule to that Act, for the words “twelve per cent”, wherever they occur, the words “fifteen per cent”, shall be substituted with effect from the 1st day of October, 1984.

25. *Amendment of section 139.*—In section 139 of the Income-tax Act,—

(a) in sub-section (1A),—

(i) for clause (b), the following clause shall be substituted, namely :—

“(b) his income or the income of such other person under the head “Salaries”, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees ;”;

(ii) the Explanation shall be omitted ;

(b) in sub-section (8),—

(i) in clause (a), for Explanation 2, the following Explanation shall be substituted, namely :—

“*Explanation 2*—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this sub-section ”;

(ii) for clause (b), the following clause shall be substituted, namely :—

“(b) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount of tax on which interest was payable under this sub-section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a

notice under section 156 and the provisions of this Act shall apply accordingly ;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.”.

26. Amendment of section 144B—In section 144B of the Income-tax Act, in sub-section (1), for the words “the Income-tax Officer proposes to make any variation”, the words, figures and letters “the Income-tax Officer proposes to make, before the 1st day of October, 1984, any variation” shall be substituted with effect from the 1st day of October, 1984.

27. Amendment of section 146—In section 146 of the Income-tax Act, in sub-section (1), after the words and figures “under section 144”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

28. Amendment of section 153—In section 153 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1),—

(i) in clause (c), for the word and figures “section 139”, the words and figures “section 139 ; or” shall be substituted ;

(ii) after clause (c), the following clause shall be inserted, namely :—

“(d) the expiry of six months from the end of the month in which an application under clause (a) of sub-section (2) of section 143 is made by the assessee.”;

(b) in Explanation 1 below sub-section (3), after clause (iv), the following clause shall be inserted, namely :—

“(iva) the period (not exceeding sixty days) commencing from the date on which the Income-tax Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him, or”.

29. Amendment of section 154—In section 154 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) With a view to rectifying any mistake apparent from the record, an income-tax authority referred to in section 116 may amend any order passed by it under the provisions of this Act.”;

(b) in sub-section (7), for the words “from the date of the order sought to be amended,” the words “from the end of the financial year in which the order sought to be amend was passed” shall be substituted.

30. Amendment of section 155—In section 155 of the Income-tax Act,—

(a) in sub-section (1), with effect from the 1st day of October, 1984,—

(i) in clause (b), after the word and figures “section 264”, the word “or” shall be inserted ;

(ii) after clause (b), the following clause shall be inserted, namely :—

“(c) on any order passed under sub-section (4) of section 245D on the application made by the firm.”;

(iii) for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted ;

(b) in sub-section (2), with effect from the 1st day of October, 1984,—
(i) in clause (b), after the word and figures “section 264”, the word “or” shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely :—

“(c). on any order passed under sub-section (4) of section 245D on the application made by the association or body,”;

(iii) for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted;

(c) in sub-section (4), for the words “from the date of the order passed”, the words “from the end of the financial year in which the order was passed” shall be substituted with effect from the 1st day of October, 1984;

(d) in sub-section (7), for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted with effect from the 1st day of October, 1984;

(e) after sub-section (7A), the following sub-section shall be inserted, namely :—

“(7B) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset is not charged under section 45 by virtue of the provisions of clause (iv) or, as the case may be, clause (v) of section 47, but is deemed under section 47A to be income chargeable under the head “Capital gains” of the previous year in which the transfer took place by reason of—

(i) such capital asset being converted by the transferee company into, or being treated by it as, stock-in-trade of its business; or

(ii) the parent company or its nominees or, as the case may be, the holding company ceasing to hold the whole of the share capital of the subsidiary company, at any time before the expiry of the period of eight years from the date of such transfer, the Income-tax Officer may, notwithstanding anything contained in this Act, re-compute the total income of the transferor company for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the capital asset was so converted or treated or in which the parent company or its nominees or as the case may be, the holding company ceased to hold the whole of the share capital of the subsidiary company.”;

(f) in sub-section (8), for the words “reckoned from the date of the assessment,” the words “reckoned from the end of the financial year in which the assessment was made” shall be substituted with effect from the 1st day of October, 1984;

(g) in sub-section (9), for the words “reckoned from the date of the assessment”, the words “reckoned from the end of the financial year in which the assessment was made” shall be substituted with effect from the 1st day of October, 1984;

(h) in clause (a) of sub-section (10), for the words “reckoned from

the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984 ;

(i) in sub-section (10A), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984 ;

(j) in sub-section (10C), for the words "reckoned from the date of the assessment" the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984 .

31. *Insertion of new Chapter XIVA.*—In the Income-tax Act, after Chapter XIV, the following Chapter shall be inserted with effect from the 1st day of October, 1984, namely :—

CHAPTER XIVA

Special Provision for Avoiding Repetitive Appeals

158A. *Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.*—(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Income-tax Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court on a reference under section 256 or before the Supreme Court on a reference under section 257 or in appeal under section 261 (such case being hereafter in this section referred to as the other case), he may furnish to the Income-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Income-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Income-tax Officer on the correctness of the claims made by the assessee and where the Income-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Income-tax Officer or the appellate authority, as the case may be, may by order in writing,—

(i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case ; or

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(a) the Income-tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without

without awaiting the final decision on the question of law in the other case ; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Income-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) confirmably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.—In this section,—

(a) “appellate authority” means the Appellate Assistant Commissioner or the Commissioner (Appeals) or the Appellate Tribunal ;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty on him.’

32. *Amendment of section 186.*—In section 186 of the Income-tax Act, in sub-section (4), for the words “the date of the order cancelling the registration” the words “the end of the financial year in which the order cancelling the registration was passed” shall be substituted with effect from the 1st day of October, 1984.

33. *Amendment of section 187.*—In section 187 of the Income-tax Act, to sub-section (2), the following proviso shall be added and shall be deemed to have been added with effect from the 1st day of April, 1975, namely :—

“Provided that nothing contained in clause (a) shall apply to a case where the firm is dissolved on the death of any of its partners.”

34. *Amendment of section 208.*—In section 208 of the Income-tax Act, with effect from the 2nd day of April, 1985,—

(a) in sub-section (1), in clause (a), for the words, brackets, letter and figures “clause (a) of section 209”, the words, brackets, letter and figures “clause (a) of sub-section (1) of section 209 shall be substituted ;

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) Notwithstanding anything contained in the foregoing provisions of this sub-section, where in the case of an assessee referred to in clause (c) or clause (d) of sub-section (2), the amount of advance tax payable by him during the financial year, as computed in accordance with the provisions of this section, does not exceed fifteen hundred rupees, it shall not be necessary for such assessee to pay any advance tax during that financial year.”

35. *Amendment of section 214.*—In section 214 of the Income-tax Act,—

(a) in sub-section (1), for the words “tax determined on regular assessment”, the words “assessed tax” shall be substituted ;

(b) for sub-section (1A), the following sub-section shall be substituted, namely :—

“(1A) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Income-tax Officer, shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.”

(c) after sub-section (2), the following Explanation shall be inserted, namely :—

Explanation 1.—In this section, “assessed tax” shall have the same meaning as in sub-section (5) of section 215.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.’

36. *Amendment of section 215.*—In section 215 of the Income-tax Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.”;

(b) after sub-section (5), the following sub-section shall be inserted, namely :—

“(6) Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section and sections 216, 217 and 273.

37. *Amendment of section 220.*—In section 220 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 1984, namely :—

“(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

(i) payment of such amount would cause genuine hardship to the assessee;

(ii) default in the payment of the amount on which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.”;

38. *Amendment of section 231.*—In section 231 of the Income-tax Act, for the words “one year”, wherever they occur, the words “three years” shall be substituted with effect from the 1st day of October, 1984.

39. *Amendment of section 245A.*—In section 245A of the Income-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely :—

“(a) “case” means any proceeding under this Act for assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before an income-tax authority on the date on which an application under sub-section (1) of section 245C is made;”.

40. *Amendment of section 245C.*—In section 245C of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of October, 1984, namely :—

“(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Income-tax Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided :

Provided that no such application shall be made unless the additional amount of income-tax payable on the income disclosed in the application exceeds fifty thousand rupees.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 245D, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the income disclosed in the application relates to one previous year,—

(i) if the applicant has not furnished a return in respect of the total income of that year and no assessment has been made in respect of the total income of that year, tax shall be calculated on the income disclosed in the application as if such income were the total income ;

(ii) if the applicant has furnished a return in respect of the total income of that year and no assessment has been made in pursuance of such return, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income ; and

(iii) if an assessment in respect of the total income of that year has been made, tax shall be calculated on the aggregate of the total income as assessed and the income disclosed in the application as if such aggregate were the total income.

(1C) The tax as calculated under sub-section (1B) shall be reduced,—

(a) in a case referred to in clause (i) of sub-section (1B), by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C;

(b) in a case referred to in clause (ii) of sub-section (1B), by the aggregate of the sums referred to in clause (a) and the tax, if any, paid by the applicant under section 10A; and

(c) in a case referred to in clause (iii) of sub-section (1B), by the aggregate of the sums and tax referred to in clause (b) as increased by the tax, if any, paid in pursuance of the assessment made in respect of the total income of that year,—

and the resultant amount so arrived at shall be the additional amount of income-tax payable in respect of the income disclosed in the application relating to that year.

(1D) Where the income disclosed in the application relates to more than one previous year, the additional amount of income-tax payable in respect of the income disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of income-tax payable in respect of the income disclosed in the application.

(1E) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to an assessee are seized under section 132, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.”

41. Amendment of section 245D.—In section 245D of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1A), the words and figures “under the Indian Income-tax Act, 1922 (11 of 1922), or” shall be omitted.

(b) after sub-section (2), the following sub-sections shall be inserted, namely :—

“(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of income-tax payable on the income disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of income-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of income-tax is not paid within time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date

of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) Where the additional amount of income-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of income-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount may be imposed and recovered, in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the assessee.”;

(c) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted ;

(d) after sub-section (6), the following sub-section shall be inserted, namely :—

“(6A) Where any tax payable in pursuance of an order sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extened the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

(e) after sub-section (7), the following sub-section shall be inserted, namely :—

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 153 shall apply to any order passed under sub-section (4) or to any order of assessment, re-assessment or re-computation required to be made by the Income-tax Officer in pursuance of any direction contained in such order passed by the Settlement Commission.”.

42. *Amendment of section 245E.*—In section 245E of the Income-tax Act, the words and figures “under the Indian Income-tax Act, 1922 (11 of 1922), or” shall be omitted with effect from the 1st day of October, 1984.

43. *Amendment of section 345H.*—In section 245H of the Income-tax Act, in sub-section (1), for the words “and also from imposition of any penalty”, the words and brackets “and also (either wholly or in part) from the imposition of any penalty” shall be substituted with effect from the 1st day of October, 1984.

44. *Amendment of section 245M.*—In section 245M of the Income-tax Act, in sub-section (1), after the words “on withdrawing such appeal from the Appellate Tribunal”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

45. *Amendment of section 246.*—In section 246 of the Income-tax Act, in sub-section (2), with effect from the 1st day of October, 1984,—

(a) after clause (c), the following clause shall be inserted namely :—

“(d) an order of assessment made after the 30th day of September, 1984, on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A;”;

(b) after clause (f), the following clause shall be inserted, namely :—

“(ff) an order made by the Inspecting Assistant Commissioner under section 154;”;

46. Amendment of section 253.—In section 253 of the Income-tax Act, in sub-section (1), clause (b) shall be omitted with effect from the 1st day of October, 1984.

47. Amendment of section 263.—In section 263 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following Explanation shall be inserted at the end, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include—

(a) an order of assessment made on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A or section 144B ; and

(b) an order made by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of sub-section 125A.”;

(b) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.”

48. Amendment of section 271.—In section 271 of the Income-tax Act, in sub-section (1), after Explanation 4, the following Explanation shall be inserted with effect from the 1st day of October, 1984, namely :—

“*Explanation 5.*—Where in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereinafter in this Explanation referred to as assets) and the claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

(a) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date such income has not been declared therein ; or

(b) for any previous years which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished or or after the date of the search, he shall for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income, unless such income is, or the transactions resulting in such income are, recorded—

(i) in a case falling under clause (a), before the date of the search ; and

(ii) in a case falling under clause (b), on or before such date in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Commissioner before the said date.”

49. *Amendment of section 273.*—In section 273 of the Income-tax Act, in sub-section (2), the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely :—

“*Explanation 2.*—When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under this section shall be the same amount as would be imposable on that firm if that firm were an unregistered firm”.

50. *Amendment of section 273A* —In section 273A of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely :—

“*Explanation 2.*—Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to a person are seized under section 132 and within fifteen days of such seizure, the person makes a full and true disclosure of his income to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Income-tax Officer of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in a good faith, disclosure of such particulars.”

(b) in sub-section (2), in clause (a), for the words “fifty thousand rupees”, the words “one hundred thousand rupees” shall be substituted ;

(c) to sub-section (4), the following proviso shall be added, namely :—

“Provided that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by the Commissioner except with the previous approval of the Board.”

51. *Amendment of section 279.*—In section 279 of the Income-tax Act, in sub-section (1), after the word, figures and letter “section 276D”, the word, figures and letters “section 276DD”, shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984.

52. *Amendment of section 288.*—In section 288 of the Income-tax Act, sub-section (3) shall be omitted with effect from the 1st day of October, 1984.

CHAPTER III

Amendments to the Wealth-Tax Act, 1957

53. *Amendment of section 4.*—In section 4 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter in this Chapter referred to as the Wealth-tax Act), in sub-section (1), in clause (a),—

(a) in sub-clause (v), the word “or” shall be inserted at the end ;

(b) after sub-clause (v), the following clause shall be inserted, namely :—

“(vi) by a person or association of persons to whom such assets have transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration for the imme-

diate or deferred benefit of the son's wife, or the son's minor child, of such individual or both."

54. *Amendment of section 5.*—In section 5 of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) after clause (xxviiia) [directed to be inserted by item (3) of sub-clause (i) of clause (a) of section 34 of the Finance Act, 1984 (21 of 1984)], the following clause shall be inserted, namely :—

"(xxviib) any deposit with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning development or improvement of cities, towns and villages, or for both ;"

(ii) in clause (xxxiii), after the words "being a person of Indian origin", the words and brackets "or a citizen of India (hereafter in this clause referred to as such person)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1977 ;

(b) in sub-section (1A), after the brackets, figures and letter '(xxviiia)', the brackets, figures and letter "(xxviib)", shall be inserted ;

(c) in sub-section (3),—

(i) after the brackets, figures and letter "(xxviiia)", the brackets, figures and letter "(xxviib)", shall be inserted ;

(ii) in the Explanation, for the words "thirty days", the words "sixty days" shall be substituted.

55. *Substitution of new section for section 8A.*—In the Wealth-tax Act, for section 8A, the following section shall be substituted with effect from the 1st day of October, 1984, namely :—

"8A. *Powers of Commissioner respecting specified areas, cases, persons, etc.* (1)—The Commissioner may, by general or special order in writing, direct that—

(a) the powers conferred on the Wealth-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner ;

(b) such of the functions assigned to the Wealth-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases, or classes of cases or specified person or classes of persons, be performed by an Inspector of Wealth-tax or any member of the ministerial staff appointed to work under the Commissioner or any other Wealth-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein :

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Wealth-tax Officer mentioned in the following provisions of this Act, namely, section 15B, 16, 17, 18, 20, 22, 24, 32, 37 and 37A.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1), applies,—

(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction

of the Inspecting Assistant Commissioner shall not apply ;

(b) where such order is made under clause (b) of the said sub-section references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to include references to the Inspector of Wealth-tax or the member of the ministerial staff specified in such order "

56. Amendment of section 17A.—In section 17A of the Wealth-tax Act, in Explanation 1, after clause (ii), the following clause shall be inserted with effect from the 1st day of October, 1984, namely :—

"(iia) the period (not exceeding sixty days) commencing from the date on which the Wealth-tax Officer received the declaration under sub-section (1) of section 18C and ending with the date on which the order under sub-section (3) of that section is made by him, or".

57. Amendment of section 18.—In section 18 of the Wealth-tax Act, in sub-section (1), after Explanation 4, the following Explanation shall be inserted with effect from the 1st day of October, 1984, namely :—

Explanation 5—Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this Explanation referred to as assets) and the assessee claims that such assets represent or form part of his net wealth,—

(a) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or, where such return has been furnished before the said date, such assets have not been declared in such return ; or

(b) on any valuation date falling on or after the date of the search, then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of such assets or furnished inaccurate particulars of such assets, unless such assets are recorded,—

(i) in a case falling under clause (a), before the date of the search ; and

(ii) in a case falling under clause (b), on or before such date, in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Commissioner before the said date."

58. Amendment of section 18B.—In section 18B of the Wealth-tax Act, in sub-section (1), with effect from the 1st day of October, 1984,—

(a) the Explanation shall be numbered as Explanation 1 ; and

(b) after Explanation 1 as so numbered, the following Explanation shall be inserted, namely :—

Explanation 2.—Where any books of account or other documents belonging to a person are seized under section 37A and within fifteen days of such seizure, the person makes a full and true disclosure of his net wealth to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Wealth-tax Officer of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith a disclosure of such particulars."

59. *Insertion of new Chapter IVA.*—In the Wealth-tax Act, after Chapter IV, the following Chapter shall be inserted with effect from the 1st day October, 1984, namely :—

“CHAPTER IVA

Special Provision for Avoiding Repetitive Appeal

18C. *Procedure when assessee claims identical question of law is pending before High Court or Supreme Court*—(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Wealth-tax Officer or any appellate authority (such case being hereinafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court or the Supreme Court on a reference under section 27 or in appeal before the Supreme Court under section 29 (such case being hereinafter in this section referred to as the other case), he may furnish to the Wealth-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Wealth-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Wealth-tax Officer on the correctness of the claim made by the assessee and, where the Wealth-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Wealth-tax Officer or the appellate authority, as the case may be, may, by order in writing,—

(i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case ; or

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(a) the Wealth-tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case ; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

(5) When the decision on question of law in the other case becomes final, it shall be applied to the relevant case and the Wealth-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.—In this section,—

(a) “appellate authority” means the Appellate Assistant Commissioner or the Commission (Appeals) or the Appellate Tribunal ;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the net wealth of the assessee or for the imposition of any penalty on him.’

60. *Amendment of section 22A.*—In section 22A of the Wealth-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely :—

“(a) “case” means any proceeding under this Act for the assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before a wealth-tax authority on the date on which an application under sub-section (1) of section 22C is made.

61. *Amendment of section 22A* —In section 22C of the Wealth-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of October, 1984, namely :—

“(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his wealth which has not been disclosed before the Wealth-tax Officer, the manner in which such wealth has been derived, the additional amount of Wealth-tax payable on such wealth and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(1A) For the purposes of sub-section (1) of this section and sub-section (2A) to (2D) of section 22D, the additional amount of wealth-tax payable in respect of wealth disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-section (1B) to (1D).

(1B) Where the wealth disclosed in the application relates to only one assessment year,—

(a) if the applicant has not furnished a return in respect of the net wealth for that year and no assessment has been made in respect of the net wealth for that year, wealth-tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth ;

(b) if the applicant has furnished a return in respect of the net wealth for that year and no assessment has been made in pursuance of such return, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth ; and

(c) if an assessment in respect of the net wealth for that year has been made, wealth-tax shall be calculated on the aggregate of the net wealth as assessed and the wealth disclosed in the application as if such aggregate were the net wealth.

(1C) The wealth-tax as calculated under sub-section (1B) shall,

(a) in a case referred to in clause (b) of sub-section (1B), be reduced by the wealth-tax, if any, paid by the applicant under section 15B ; and

(b) in a case referred to in clause (c) of sub-section (1B), be reduced by the aggregate of the wealth-tax referred to in clause (a) and the

wealth-tax, if any, paid by the applicant in pursuance of the assessment made in respect of the net wealth for that year,

and the amount referred to in clause (a) of sub-section (1B) or, as the case may be, the resultant amount arrived at under clause (a) or clause (b), as the case may be, shall be the additional amount of wealth-tax payable in the respect of the wealth disclosed in the application relating to that year.

(1D) Where the wealth disclosed in the application relates to more than one assessment year, the additional amount of wealth-tax payable in respect of the wealth disclosed for each of the years shall first be calculated in accordance with the provisions of sub-section (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application.

(1E) Where any books of account or other documents belonging to an assessee are seized under section 37A, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.'

62. *Amendment of section 22D.*—In section 22D of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) after sub-section (2), the following sub-sections shall be inserted, namely :—

“(2A) Subject to the provisions of sub-section (2B), the assessee shall within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of wealth-tax payable on the wealth disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(1B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of wealth-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of wealth-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) Where the additional amount of wealth-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of wealth-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount of wealth-tax may be imposed and recovered, in accordance with the provisions of Chapter VII, by the wealth-tax Officer having

jurisdiction over the assessee.”;

(b) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted;

(c) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

(d) after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 17A shall apply to any order passed under sub-section (4) or to any order of assessment or re-assessment required to be made by the Wealth-tax Officer in pursuance of any directions contained in such order passed by the Settlement Commission”.

63. Amendment of section 22H.—In section 22H of the Wealth-tax Act, in sub-section (1), for the words “and also from the imposition of any penalty”, the words and brackets “and also (either wholly or in part) from the imposition of any penalty” shall be substituted with effect from the 1st day of October, 1984.

64. Amendment of section 22M.—In section 22M of the Wealth-tax Act, in sub-section (1), after the words “on withdrawing such appeal from the Appellate Tribunal”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

65. Amendment of section 25.—In section 25 of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), the following Explanation shall be inserted at the end, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Wealth-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Wealth-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 8A or under sub-section (1) of section 8AA.”;

(b) in sub-section (3), for the words “from the date of the order sought to be revised”, the words “from the end of the financial year in which the order sought to be revised was passed” shall be substituted.

66. Amendment of section 31.—In section 31 of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), for the words “twelve per cent”, the words “fifteen per cent,” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee

under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

(i) payment of such amount would cause genuine hardship to the assessee ;

(ii) default in the payment of the amount by which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee ; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him”.

67. *Amendment of section 34A.*—In section 34A of the Wealth-tax Act, for the words “twelve per cent”, the words ‘fifteen per cent’ shall be substituted with effect from the 1st day of October, 1984.

68. *Insertion of new section 34ACC.*—After section 34AC of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1984, namely :—

“34ACC. *Furnishing of particulars in certain cases.*—Where any person who is registered as a valuer under section 34AB or who has made an application for registration as a valuer under that section is, at any time thereafter,—

(a) convicted of any offence and sentenced to a term of imprisonment ; or

(b) in a case where he is a member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of architecture, accountancy or company secretaries or such other profession as the Board may specify in this behalf by notification in the Official Gazette, found guilty of misconduct in his professional capacity, by such association or institution,

he shall immediately after such conviction or as the case may be, finding, intimate the particulars thereof to the Board.”

69. *Amendment of section 35.*—In section 35 of the Wealth-tax Act, in sub-section (7), with effect from the 1st day of October, 1984,—

(i) in clause (a), for the words “from the date of the order passed in the first appeal or revision”, the words “from the end of the financial year in which the order was passed in the first appeal or revision” shall be substituted ;

(ii) in clause (b), for the words “from the date of the order sought to be amended”, the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted.

70. *Insertion of new section 35EE.*—After section 35EE of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1984, namely :—

“35EE. *Failure to furnish particulars under section 34ACC.*—If a person referred to in section 34ACC fails, without reasonable cause or excuse, to intimate to the Board the particulars of conviction or finding referred to in the said section, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.”

CHAPTER IV

Amendments to the Gift-tax Act, 1958

71. *Amendment of section 2.*—In section 2 of the Gift-tax Act, 1958 (18 of 1958) (hereinafter in this Chapter referred to as the Gift-tax Act), in clause (va), the words “not involving the carrying on of any activity for profit” shall be omitted and shall be deemed to have been omitted with effect from 1st day of April, 1984.

72. *Amendment of section 5.*—In section 5 of the Gift-tax Act, in sub-section (1), after clause (xv), the following clause shall be inserted, namely :—

“(xvi) to any other person, upto a maximum of rupees five hundred in value in one previous year.”

73. *Substitution of new section for section 7A.*—In the Gift-tax Act, for section 7A, the following section shall be substituted with effect from the 1st day of October, 1984, namely :—

“7A. *Powers of Commissioner respecting specified areas, cases, persons, etc.*—(1) The Commissioner may, by general or special order in writing, direct that—

(a) the powers conferred on the Gift-tax Officer by or under this Act, shall in respect of any specified case or class of cases or of any specified persons or class of persons, be exercised by the Inspecting Assistant Commissioner ;

(b) such of the function assigned to the Gift-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases or classes of cases or specified persons or classes of persons, be performed by an Inspector of Gift-tax or any member of the ministerial staff appointed to work under the Commissioner or any other gift-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein :

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Gift-tax Officer mentioned in the following provisions of this Act, namely, sections 15, 16, 17, 19A, 20 21, 21A, 23, 32, 33 and 36.

(2) For the purposes of any case or persons or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply ;

(b) where such order is made under clause (b) of the said sub-section reference in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to include references to the Inspector of Gift-tax or the member of the ministerial staff specified in such order”.

74. *Amendment of section 24.*—In section 24 of the Gift-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), the following Explanation shall be inserted at the end, namely :—

Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Gift-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in

exercise of the powers or in performance of the functions of a Gift-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 7A or under sub-section (1) of section 7AA.”;

(b) in sub-section (3), for the words “from the date of the order sought to be revised”, the words “from the end of the financial year in which the order sought to be revised was passed” shall be substituted.

75. Amendment of section 32 and 33A.—In sections 32 and 33A of the Gift-tax Act, for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

78. Amendment of section 34.—In section 34 of the Gift-tax Act, in sub-section (7), for the words “from the date of the order sought to be amended” the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted with effect from the 1st day of October, 1984.

CHAPTER V

Amendment to the Companies (Profits) Surtax Act, 1964

77. Amendment of sections 7B to 7D.—In sections 7B to 7D of the Companies (Profits) Surtax Act, 1964 (7 of 1964) [hereafter in this Chapter referred to as the Companies (Profits) Surtax Act], for the words “twelve per cent.”, wherever they occur, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

78. Amendment of section 13.—In section 13 of the Companies (Profits) Surtax Act, in sub-section (1), for the words “within four years of the date on which such order was passed”, the words “within four years from the end of the financial year in which such order was passed” shall be substituted with effect from the 1st day of October, 1984.

79. Amendment of section 14.—In section 14 of the Companies (Profits) Surtax Act, for the words “from the date of the order passed under the aforesaid section of the Income-tax Act”, the words “from the end of the financial year in which the order under the aforesaid sections of the Income-tax Act was passed” shall be substituted with effect from the 1st day of October, 1984.

80. Amendment of section 16.—In section 16 of the Companies (Profits) Surtax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following Explanation shall be inserted at the end, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A of the Income-tax Act as applied by section 18 of this Act.”;

(b) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.”;

CHAPTER VI

Amendment to the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974

81. *Amendment of section 13.*—In section 13 of the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 (38 of 1974), in sub-section (1), for the words “within four years of the date on which such order was passed”, the words “within four years from the end of the financial year in which such order was passed” shall be substituted with effect from the 1st day of October, 1984.

CHAPTER VII

Amendments to the Interest-tax Act, 1974

82. *Amendment of section 17.*—In section 17 of the Interest-tax Act, 1974 (45 of 1974), (hereafter in this Chapter referred to as the Interest-tax Act), in sub-section (1), for the words “within four years of the date on which such order was passed”, the words “within four years from the end of the financial year in which such order was passed” shall be substituted with effect from the 1st day of October, 1984.

83. *Amendment of section 19.*—In section 19 of the Interest-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following Explanation shall be inserted at the end, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers of an Income-tax Officer conferred on him under clause (a) of sub-section (1) of section 125 of the Income-tax Act as applied by section 21 of this Act.”;

(b) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.”.

CHAPTER VIII

Miscellaneous

84. *Applicability of revised rate of interest*—For the removal of doubts, it is hereby declared that where interest is payable under—

(a) any provision of the Income-tax Act, 1961 (43 of 1961) referred to in section 24 of this Act ; or

(b) section 31 or section 34A of the Wealth-tax Act, 1957 (27 of 1957) ; or

(c) section 32 or section 33A of the Gift-tax Act 1958 (18 of 1958) ; or

(d) sections 7B to 7D and section 18 of the Companies (Profits) Surtax Act, 1964 (7 of 1964) ; or

(e) section 21 of the Interest-tax Act, 1974, (45 of 1974),

in respect of any period commencing on or before the 30th day of September, 1984 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of fifteen per cent, per annum.

THE WAKF (AMENDMENT) ACT, 1984

The following Act of the Parliament received the assent of the President on the 10th October, 1984, and was published in the *Gazette of India*, (Ext), Part II, Section I, No 87, dated October 10, 1984.

INDIAN PARLIAMENT ACT NO. 69 OF 1984

[10th October, 1984.]

An Act further to amend the Wakf Act, 1954.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Wakf (Amendment) Act, 1984**.

(2) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for the different provisions of this Act and for different States or for different areas within a State, and any reference in any provision to the commencement of this Act shall in relation to any State or area therein be construed as a reference to the commencement of that provision in such State or area.

2. *Amendment of section 1.*—In section 1 of the Wakf Act, 1954 (29 of 1954) hereinafter referred to as the principal Act, in sub-section (3), for the first proviso, the following proviso shall be substituted namely :—

“Provided that, as soon as may be, after the commencement of the Wakf (Amendment) Act, 1984, the Central Government may, by notification in the Official Gazette, appoint a date on which the provisions of this Act, as amended by the Wakf (Amendment) Act, 1984, shall come into force in the States of Uttar Pradesh and West Bengal and in those parts of the States of Gujarat and Maharashtra in which the provisions of this Act do not apply, and different dates may be appointed for different States or for different areas, and for the different provisions of this Act, as so amended, and, on and from the date so appointed, the corresponding law, applicable to wakfs in force in that State or in any part thereof, or, as the case may be in such area, shall cease to operate, and, on such cesser, such corresponding law shall be deemed to have been repealed by an Act enacted by the Legislature of that State, but such cesser shall not affect the previous operation of such corresponding law, and subject thereto, anything done or any action taken in exercise of any power conferred by or under any such corresponding law shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as amended by the Wakf (Amendment) Act, 1984, as if this Act, as so amended, were in force on the date on which such thing was done or action was taken :”

3. *Amendment of section 3.*—In section 3 of the principal Act,

(i) clause (d) shall be omitted ;

(ii) in clause (f),—

(a) after the word “to be the mutawalli of a wakf and includes any”, the words “person who is a mutawlli of a wakf by virtue of any custom or who is a” shall be inserted ;

(b) for the words “any person or Committee for the time being managing or administering any wakf property as such”, the words “any person, Committee or Corporation for the time being managing or administering any wakf or wakf property :

Provided that no member of a Committee or Corporation shall be deemed to be a mutawalli unless such member is an office bearer of such Committee or Corporation" shall be substituted ;

(iii) for clause (g), the following clause shall be substituted, namely:—

'(g) "net annual income", in relation to a wakf, means the net annual income determined in accordance with the provisions of the Explanations to sub-section (1) of section 46 ;

(iv) after clause (k), the following clauses shall be inserted, namely:—

'(ka) Survey Commissioner" means the Survey Commissioner of Wakf appointed under sub-section (1) of section 4 and includes any additional or assistant survey commissioner of Wakfs ;

(kb) "Tribunal", in relation to any area, means the Tribunal, constituted under sub-section (1) of section 55, having jurisdiction in relation to that area ;

(v) in clause (l),—

(a) in the opening portion, after the words "person professing Islam", the words "or any person", shall be inserted ;

(b) in sub-clause (i), after the words "a wakf by user", the words "but such wakf shall not cease to be a wakf by reason only of the user having ceased irrespective of the period of such cesser" shall be inserted ;

(c) in sub-clause (ii), after the words "mashrut-ul-khidmat" the words, "muafies, khairati, qazi service, madadmash", shall be inserted ;

(d) for sub-clause (iii), the following sub-clause shall be substituted, namely :—

"(iii) a wakf-alal-aualad ;

(e) to clause (l), the following proviso shall be added, namely :—

"Provided that in the case of a dedication by a person not professing Islam, the Wakf shall be void if, on the death of such person, any objection to such dedication is raised by one or more of his legal representatives ;

(vi) after clause (l), the following clause shall be inserted, namely :—

"(la) "Wakf Commissioner" means the Wakf Commissioner appointed under sub-section (1) of section 21 ;

4. Amendment of section 4.—In section 4 of the principal Act,—

(i) for the word "Commissioner" wherever it occurs, the words "Survey Commissioner" shall be substituted ;

(ii) for the word "commissioners", wherever it occurs, the words "Survey Commissioners" shall be substituted ;

(iii) after sub-section (5), the following sub-section shall be inserted, namely :—

"(6) The State Government may, by notification in the Official Gazette, direct the Survey Commissioner to make a second or subsequent survey of wakf properties in the State and the provisions of sub-sections (2), (3), (4) and (5) shall apply to such survey as they apply to a survey directed under sub-section (1) ;

Provided that no such second or subsequent survey shall be made until the expiry of a period of twenty years from the date on which the report in relation to the immediately previous survey was submitted under sub-section (3)".

5. Amendment of section 5—In section 5 of the principal Act, in sub-section 2, for the words "existing in State, or as the case may be, the part

of the State", the words "in the State, or as the case may be, the part of the State, whether in existence at the commencement of this Act or coming into existence thereafter" shall be, and shall be deemed always to have been substituted.

6. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1), the following Explanation shall be inserted at the end, namely :—

"Explanation.—For the purposes of this section and section 6A, the expression "any person interested therein", occurring in sub-section (1) of this section and in sub-section (1) of section 6A, shall in relation to any property specified as wakf property in a list of wakfs published, under sub-section (2) of section 5, after the commencement of the Wakf Amendment Act, 1984, shall include also every person who, though not interested in the wakf concerned, is interested in such property and to whom a reasonable opportunity had been afforded to represent his case by notice served on him in that behalf during the course of the relevant inquiry under section 4";

(b) in sub-section (3), for the word "Commissioner", the words "Survey Commissioner" shall be substituted ;

(c) after sub-section (4), the following sub-section shall be inserted, namely :—

"(5) On and from the commencement of the Wakf (Amendment) Act, 1984 in a State, no suit or other legal proceeding shall be instituted, or commenced in a civil court in that State in relation to any question referred to in sub-section (1)."

7. *Insertion of new section 6A.*—After section 6 of the principal Act, the following section shall be inserted, namely :—

"6A. Power of Tribunal to determine disputes regarding wakfs.—(1) If, after the commencement of the Wakf (Amendment) Act, 1984, any question arises whether a particular property specified as wakf property in a list of wakfs published under sub-section (2) of section 5 is wakf property or not, or whether a wakf specified in such list is a Shia Wakf or a Sunni Wakf, the Board or the mutawalli of the wakf, or any person interested therein, may apply to the Tribunal having jurisdiction in relation to such property, for the decision of the question and the decision of the Tribunal in respect of such matter shall be final :

Provided that—

(a) in the case of the list of wakfs relating to any part of the State and published or purporting to have been published after the commencement of the Wakf (Amendment) Act, 1984, no such application shall be entertained after the expiry of one year from the date of publication of the list of wakfs under sub-section (2) of section 5 ; and

(b) in the case of the list of wakfs relating to any part of the State and published or purporting to have been published at any time within a period of one year immediately preceeding the commencement of the Wakf (Amendment) Act, 1984, such an application may be entertained by the Tribunal within the period of one year from such commencement :

Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not re-open such question.

(2) Except where the Tribunal has no jurisdiction by reason of the provisions of sub-section (5) no proceeding under this section in respect of any wakf shall be stayed by any court, tribunal or other authority by reason only of the pendency of any suit, application or of any appeal or other proceeding arising out of any such suit, application, appeal or other proceeding.

(3) The Wakf Commissioner shall not be made a party to any application under sub section (1)

(4) The list of wakfs published under sub-section (2) of section 5, and where any such list is modified in pursuance of a decision of the Tribunal under sub-section (1), the list as so modified, shall be final.

(5) The Tribunal shall not have jurisdiction to determine any matter which is the subject-matter of any suit or proceeding instituted or commenced in a civil court under sub-section (1) of section 6, before the commencement of the Wakf (Amendment) Act, 1984, or which is the subject-matter of any appeal from the decree passed before such commencement in any such suit or proceeding or of any application for revision or review arising out of such suit, proceeding or appeal, as the case may be".

8. *Amendment of section 7.*—In sub-section (1) of section 7 of the principal Act, for the word "Commissioner", the word "Survey Commissioner" shall be substituted

9. *Amendment of section 8D.*—In sub-section (3) of section 8D of the principal Act, for the words "in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

10. *Amendment of section 9.*—After sub-section (2) of section 9 of the principal Act, the following sub-section shall be inserted, namely :—

"(3) It shall be lawful for the Board to so re-organise its administrative set-up in the State as to ensure better administration of the wakfs in the State."

11. *Amendment of section 10.*—For section 10 of the principal Act, the following section shall be substituted, namely :—

'10. *Composition of the Board.*—(1) The Board shall, in the case of a State, as also in the case of the Union territory of Delhi, consist of—

(a) four members, of whom two shall be elected from among themselves by such of the Muslim members of Parliament as have been elected thereto from that State or the Union territory of Delhi, as the case may be, and the other two shall be elected from among themselves by such of the Muslim members of the State Legislature as have been elected thereto, and such election shall be held in accordance with the system of proportional representation by means of a single transferable vote in such manner as may be prescribed :

Provided that where the number of Muslim members elected to Parliament from a State, or, as the case may be, the Union territory of Delhi, is only one, or where the number of Muslim members elected to a State Legislature is only one, the Muslim member who has been elected to Parliament from the State or the Union territory of Delhi, as the case may be, and the Muslim member who has been elected to the State Legislature,

shall become, by virtue of such election, member of the Board and the remainder of the membership of the Board under this clause shall be filled up by the State Government by appointing suitable persons as members of the Board :

Provided further that where no Muslim has been elected from the State or the Union territory of Delhi to Parliament, or, as the case may be, to the State Legislature, the vacancy in the membership of the Board under this clause shall be filled up by the State Government by appointing suitable persons as members of the Board :

Provided also that in determining the number of Shia members or Sunni members of the Board, the State Government shall have regard to the number and value of the Shia Wakfs and Sunni Wakfs to be administered by the Board and the appointment of the members shall be made, so far as may be, in accordance with such determination ;

(b) five members, to be appointed by the State Government, of whom—

(i) one shall be a Shia in the States where there is no Shia Board ;
(ii) one shall be a person who, in the opinion of that Government, is a recognised scholar in Islamic theology ;

(iii) one shall be appointed from among the members of any Muslim organisation in the State ; and

(iv) two shall be persons possessing administrative experience and knowledge of law ;

(c) one mutawalli, to be appointed by the State Government ; and

(d) the Wakf Commissioner, who shall be, *ex officio*, Member-Secretary of the Board.

Explanation.—The references to “State Legislature” in this sub-section shall be construed in relation to the Union territory of Delhi as references of the Metropolitan Council of Delhi constituted under section 3 of the Delhi Administration Act, 1966 (19 of 1966)

(2) The Board shall, in the case of a Union territory other than the Union territory of Delhi, consist of—

(a) five members, to be appointed by the Central Government from amongst the categories of persons specified in clause (b) of sub-section 1, and, for this purpose, the provisions of the said clause shall apply to the composition of the Board under this sub-section as they apply to the composition of the Board under sub-section (1) ;

(b) one mutawalli to be appointed by the Central Government ; and

(c) the Wakf Commissioner, who shall be, *ex officio*, Member-Secretary of the Board.

(3) Whenever the Board is constituted or reconstituted as the case may be, the members of the Board present at a meeting convened for the purpose by the Wakf Commissioner, shall elect one from amongst themselves (other than the Wakf Commissioner) as the Chairman of the Board.

12. *Omission of section 11.*—Section 11 of the principal Act shall be omitted.

13. *Amendment of section 13.*—In section 13 of the principal Act, for clauses (d) and (e), the following clauses shall be substituted, namely :—

“(d) if he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence ;

(c) if he has been, on a previous occasion,—

(i) removed from his office as a member or as a mutawalli, or

(ii) removed by an order of a competent court or tribunal from any position of trust, either for mismanagement or for corruption.”

14. *Amendment of section 15.*—In section 15 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “general superintendence of all wakfs in a State shall vest”, the words “general superintendence of all wakfs in a State in relation to all matters, except those which are expressly required by this Act to be dealt with by the Wakf Commissioner, shall vest” shall be substituted;

(ii) after the proviso, the following Explanation shall be inserted, namely :—

‘Explanation.—For the removal of doubts it is hereby declared that in this sub-section, “wakf” includes a wakf in relation to which any scheme has been made by any court of law, whether before or after the commencement of the Wakf Amendment Act, 1984 ;

(b) in sub-section (2),—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) to ensure that the income and other property of a wakf are applied to the objects and for the purposes for which that wakf was created or intended;”;

(ii) clause (d) shall be omitted ;

(iii) in sub-clause (iii) of clause (e), for the words “or as nearly as practicable similar, to the original object, the words “or nearly similar, to the original object, or for the benefit of the poor or for the purpose of promotion of knowledge and learning in the Muslim community” shall be substituted ;

(iv) in the Explanation, for the words “shall be exercised”, the words “shall be exercised under sub-section (1)”, shall be substituted ;

(v) clauses (f) and (h) shall be omitted ;

(vi) in clause (j), for the words, figures and letter “or lease, as required by Section 36A”, the words “or lease, in accordance with the provisions of this Act” shall be substituted ;

(vii) clauses (l), (m) and (n) shall be omitted ;

(c) in sub-section (3),—

(i) the words, brackets, letter and figure “settled any scheme of management under clause (d) of sub-section (2) or” shall be omitted ;

(ii) for the words “or affected by such settlement or direction,” the words “or affected by such direction” shall be substituted ;

(iii) for the words “setting aside such settlement or directions”, the words “setting aside such directions” shall be substituted.

15. *Insertion of new sections 15A, 15B, 15C and 15D.*—After section 15 of the principal Act, the following sections shall be inserted, namely :—

“15A. *Power to develop urban land which is wakf property.*— (1) Where the Board is of opinion that any urban land which is wakf property, and which is not in the possession of the mutawalli of the wakf, and in relation to which no process of acquisition has been commenced under any law for the time being in force relating to the acquisition of land, and which has not vested in the State under any law for the time being in force relating to land reforms (hereinafter referred to as the specified urban land)

offers a potential for the development of such land for land uses such as, the establishment of any shopping centre or market or for the construction of residential flats or for any other commercial uses and that the proposed development of the use of such land is in accordance with any land uses specified, under any law for the time being in force, in any Master Plan or other Plan, if any, prepared by any local or other statutory authority in relation to the area in which such specified urban land is situate, it may make an application to the State Government specifying therein, the nature of the work which is intended to be executed for the development of the use of such land.

(2) On receipt of any application made under sub-section (1), the State Government shall issue a notice requiring—

(a) the local or other statutory authority to state, whether the intended development of the use of the specified urban land is in accordance with the land uses specified in the Master Plan or other Plan which has been prepared by such authority of the area in which such specified urban land is situate and whether any project for the development of the land uses of the specified urban land has been, or is proposed to be, undertaken by such authority, and where no such Plan has been prepared, whether such authority has any objection to the proposed development, by the Board, of the specified urban land for the land uses specified in sub-section (1) ;

(b) the Director General of Archaeology to state whether the development of the specified urban land for the land uses specified in sub-section (1) is likely to affect prejudicially any ancient or protected monument within the meaning of the Ancient Monuments Preservation Act, 1904, (7 of 1904), or any ancient monument or archaeological site and remains which have been declared under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1953) to be of national importance ;

(c) the mutawalli of the concerned wakf to state whether he has any objection to the proposed development of the specified urban land for the land uses specified in sub-section (1), and if not, whether he is ready and willing to carry out the proposed work for the development of the specified urban land for such land uses within the time specified in the notice, and whether he has the financial and other means to do so.

(3) The notice referred to in sub-section (2) shall specify the time, not being less than sixty days, within which a reply thereto is to be given.

(4) If no reply is received to the notice issued under sub-section (2) or if after considering such replies as may be received in pursuance of the said notice and if, after making such inquiry as it may think fit, the State Government is satisfied that—

(a) the specified urban land is wakf property and is not in the possession of the mutawalli of the wakf and no process of acquisition of such land has been commenced under any law for the time being in force relating to the acquisition of land and that such land has not vested in the State under any law for the time being in force relating to land reforms ;

(b) no project for the development of the land uses of the specified urban land has been, or is proposed to be, undertaken by the local or other statutory authority ;

(c) the proposed work for the development of the specified urban land for the land uses specified in sub-section (1) is conducive to the interests of the wakf and is in the public interest ;

(d) the proposed development of the specified urban land for such

land uses is in accordance with the land uses specified in the Master Plan or other Plan as aforesaid, or, where there is no such Plan, has been approved by the local or other statutory authority aforesaid ;

(e) the proposed development of the specified urban land for such land uses is not likely to prejudicially affect any ancient monument within the meaning of the Ancient Monuments Preservation Act, 1904 (7 of 1904), or any ancient monuments or archaeological site and remains which have been declared to be of national importance under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958) ; and

(f) the mutawalli does not have any objection to the proposed development of land uses and is either unwilling to execute, or if willing, does not have the means of executing, the proposed work within the time specified in the notice issued to him, the State Government may take over the management of the specified urban land for such period, not being more than five years or such longer period not being more than fifteen years in the aggregate, as the State Government may, from time to time, specify by notification in the Official Gazette, and shall thereafter, entrust the management of the specified urban land to the Board, for the purposes of making such development of the land uses as are specified in sub-section (1), and may also authorise the Board to remove, from the specified urban land, any building or structure standing thereon, the removal of which is, in the opinion of the State Government, necessary for the purpose of executing any work for the development of the land uses of such specified urban land :

Provided that the Board shall, during the course of management of the specified urban land, carry on work for the development of such land for the land uses specified in sub-section (1), under the direction, control and supervision of the State Government :

Provided further that the High Court may, on the application of any person aggrieved by any order made by the State Government under this sub-section call for the records of the case from the State Government for the purpose of satisfying itself as to the correctness, legality or propriety of the order and may, after the examining the records, pass such orders as it may think fit.

Explanation.—For the purposes of this section, specified urban land shall include all rights, leasehold, powers, authorities and privileges, and shall also include all buildings, workshops and all other rights and interests arising out of the specified urban land, as were, immediately before the date on which management thereof is taken over by the State Government (hereinafter referred to as the appointed day) in the ownership, possession, power or control of the mutawalli of the wakf, and all books of accounts, registers and all the documents of whatever nature relating thereto.

(5) Any contract, whether express or implied, or other arrangement in so far as it relates to the management of the specified urban land and in force immediately before the appointed day, shall be deemed to have become terminated on the appointed day.

(6) All persons in charge of the management of the specified urban land, immediately before the appointed day, shall, on and from the appointed day, be deemed to have vacated their offices as persons in charge of the management thereof.

(7) Any person who, on the appointed day, has in his possession or under his control, any books, papers or other documents relating to the management of the specified urban land, shall deliver them to the Board or such person as the Board may authorise in this behalf.

(8) For every year or part thereof during which the Board remains in charge of the management of the specified urban land, there shall be paid by the Board annually to the mutawalli of the wakf, an amount equal to the average net annual income derived by the wakf from the specified urban land during the period of three years immediately preceding the appointed day and the amount so paid shall be duly credited to the account of the wakf to which the specified urban land pertains.

(9) The Board may execute any work for the development of the land uses of the specified urban land from its own finances, but where its own finances are not sufficient, it shall be lawful for the Board to raise the necessary finances on the security of the specified urban land.

(10) Any transfer of the specified urban land, or any contract or agreement relating thereto, made within a period of six months immediately preceding the date of service of the notice on the mutawalli under sub-section (2), shall unless it was made in good faith and for valuable consideration in the due course of management of the specified urban land, be void.

(11) Subject to the provisions of sub-section (4), the Board shall continue to control the management of the specified urban land till such time as all the expenses incurred by it under this section for the development of the land for the land uses specified in sub-section (1), together with interest due thereon, and all expenses incurred for the maintenance of such work or development and other legitimate charges incurred in relation to the development of the specified urban land for such land uses are fully recovered from the income derived by the Board from such land or from any shopping centre market, residential flats raised thereon or from other commercial uses of the specified urban land.

(12) The Board shall, after the recovery of all expenses and charges referred to in sub-section (11), or upon the expiry of the period specified under sub-section (4), whichever is earlier, restore to the person in charge of the management of the specified urban land immediately before the appointed day, the management of such land, as so developed, together with the shopping centres, markets, residential flats and other structures, if any, constructed thereon.

(13) The provisions of sub-sections (1), (2), (3) and (4) shall, as far as may be, apply to the proposal for the development of the land uses of any urban wakf property which is in the possession of the mutawalli of the wakf, subject to the modification that instead of taking over the management of such property, the State Government may, by order, remove the mutawalli from possession thereof and place the same in the possession of the Board and authorise the Board to carry out the development of such uses of the urban wakf property as are specified in sub-section (1).

(14) Where, as a result of the development of any specified urban land or any urban land referred to in sub-section 13, for the land uses specified in sub-section (1), there is a substantial increase in the income of the wakf and the quantum of the increase is such that the whole of such increased income is not needed for the purpose of the wakf, the Board

may make a direction in accordance with the provisions of clause (e) of sub-section (2) of section 15, as to how such surplus income shall be utilised and submit such direction to the State Government for approval, and, such surplus income shall be utilised for such purposes as may be specified in the direction as approved by the State Government.

15B. Powers of inspection by Wakf Commissioner or person authorised by him.—(1) With a view to examining whether, by reason of any failure or negligence on the part of a mutawalli in the performance of his executive or administrative duties, any loss or damage has been caused to any wakf or wakf property, the Wakf Commissioner, or any other person authorised by him in writing in this behalf, may inspect all movable and immovable properties which are wakf properties, and all records, correspondence, plans, accounts and other documents relating thereto :

Provided that such inspection shall be made at least once in two years, in relation to every wakf having a gross annual income exceeding twelve thousand rupees.

(2) Whenever any such inspection as is referred to in sub-section (1) is made, the concerned mutawalli and all officers and other employees working under him, and every person connected with the administration of the wakf, shall extend to the person making such inspection, all such assistance and facilities as may be necessary and reasonably required by him to carry out such inspection, and shall also produce for inspection any movable property or documents relating to the wakf as may be called for by the person making the inspection and furnish to him such information relating to the wakf as may be required by him.

(3) Where, after any such inspection, it appears that the concerned mutawalli or any officer or other employee who is working under him or had been working under him in the past, has misappropriated, misapplied, or fraudulently retained, any money or other wakf property, or had incurred irregular, unauthorised or improper expenditure from the funds of the wakfs, the Wakf Commissioner may, after giving the mutawalli or the person concerned a reasonably opportunity of showing cause why an order for the recovery of the amount or property aforesaid should not be passed against him, and after considering such explanation, if any, as such person may furnish, determine the amount or the property which has been appropriated, misapplied or fraudulently retained, or the amount of the irregular, unauthorised or improper expenditure incurred, by such person, and make an order directing such person to make payment of the amount so determined from his personal funds, and not from the funds of the wakf, or as the case may be, to restore the property aforesaid to the wakf, within such time as may be specified in the order.

(4) A mutawalli or other person aggrieved by such order may, within thirty days of the receipt by him of the order, appeal to the Tribunal :

Provided that no such appeal shall be entertained by the Tribunal unless the appellant first deposits with the Wakf Commissioner the amount which has been determined under sub-section (3) as being payable by the appellant and the Tribunal shall have no power to make any order staying, pending the disposal of the appeal, the operation of the order made by the Wakf Commissioner under sub-section (3).

(5) The Tribunal, after taking such evidence as it may think fit, may confirm, reverse or modify the order made by the Wakf Commissioner

under sub-section (3) or may remit, either in whole or in part, the amount specified in such order and may make such orders as to costs as it may think appropriate in the circumstances of the case.

(6) The order made by the Tribunal under sub-section (5) shall be final

15C. Recovery of the amount determined under section 15B—Where any mutawalli or other person who has been ordered, whether under sub-section (3) or sub-section (5) of section 15B, to make any payment or to restore the possession of any property, omits or fails to make such payment or restoration within the time specified in such order, the Wakf Commissioner shall take such steps as he may think fit for the recovery of possession of the property aforesaid and shall also send a certificate to the Collector of the district in which the property of such mutawalli or other person is situate, stating therein the amount that has been determined by him or by the Tribunal, as the case may be, under section 15B, as being payable by such mutawalli or other person, and, thereupon, the Collector shall recover the amount specified in such certificate as if it were an arrear of land revenue and on the recovery of such amount, pay the same to the Wakf Commissioner, who shall, on receipt thereof, credit the amount to the funds of the concerned wakf.

15D. Conditional attachment by Tribunal.—(1) Where the Wakf Commissioner is satisfied that the mutawalli or any other person who has been ordered under sub-section (3) or sub-section (5) of section 15B to make any payment, with intent to defeat or delay the execution of the said order,—

(a) is about to dispose of the whole or any part of his property ;
or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Wakf Commissioner,
he may apply to the Tribunal for the conditional attachment of the said property or such part thereof as he may think necessary.

(2) The Wakf Commissioner shall, unless the Tribunal otherwise directs, specify in the application the property required to be attached and the estimated value thereof.

(3) The Tribunal may direct the mutawalli or the person concerned, as the case may be, within a time to be fixed by it, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Tribunal, when required, the said property or the value of the same or such portion thereof as may be sufficient to satisfy the amount specified in the certificate referred to in section 15C, or to appear and show cause why he should not furnish such security.

(4) The Tribunal may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

(5) Every attachment made under this section shall be made in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as if it were an order for attachment made under the provision of the said Code.

(6) If any attachment is made without complying with the provision of sub-section (3), such attachment shall be void."

16. Amendment of section 16.—If sub-section (2) of section 16 of the

principal Act, after the words "functions and duties", the words "and the term of office" shall be inserted.

17. *Substitution of section 21.*—For section 21 of the principal Act, the following section shall be substituted, namely :—

"21 *Appointment of Wakf Commissioner and his term of office, etc.*—

(1) There shall be in each State a Wakf Commissioner who shall be the Chief Executive Officer of the Board.

(2) The Wakf Commissioner shall be a person professing Islam and shall be appointed by the State Government by notification in the Official Gazette :

Provided that in the case of Union territories (including the Union territory of Delhi), the Central Government may, by notification in the Official Gazette, appoint one person to be the Wakf Commissioner for two or more Union territories, irrespective of whether or not any common Board has been established for such Union territories :

Provided further that where a common Board has been established under section 66E for two or more States, the power to appoint a Wakf Commissioner for such States shall vest in the Central Government, and the Wakf Commissioner, appointed by the Central Government, as far as may be, in accordance with the provisions of this section, shall function as the Wakf Commissioner in respect of each of the States for which such common Board has been established.

(3) The Wakf Commissioner shall be appointed from amongst such persons as are holding posts in the Senior Scale of Class I of the Judicial Service of the State or posts in the Senior Scale of any Administrative Service in the State :

Provided that no person shall be so appointed unless he has held the post of a Deputy Secretary to the Government of the State, or any other post of an equivalent rank, for a period of not less than five years :

Provided further that if in any State, no person, professing Islam, who has held the post of Deputy Secretary to the Government of the State or any other post of an equivalent rank for a period of five years, or more, is available, it shall be lawful for the State Government to relax the conditions with regard to the said status or rank, as the case may be, and the period for which a post of such status or rank should have been held by a person to become eligible for such appointment.

(4) The Wakf Commissioner shall hold office for such period not exceeding five years, as may be specified in the notification whereby he is appointed, or until he attains the age of superannuation, whether under the rules for the time being in force in relation to the members of the Service to which he belongs, or in relation to the post which he was holding immediately before the appointment as the Wakf Commissioner whichever is earlier, and shall, subject to the provisions of this sub-section, be eligible for re-appointment for a like term.

(5) The Wakf Commissioner shall not, during his term of office as such, hold the office of a mutawalli of any wakf and shall devote his whole time and attention to his duties under this Act.

(6) The Wakf Commissioners shall receive such monthly salary, not less than the salary drawn by him immediately before the date of his appointment as Wakf Commissioner, as may be fixed by the State Government, and shall hold such office with the same rights and privileges as to pension,

gratuity, provident fund and other matters as would have been admissible to him if he had not been so appointed and shall continue to do so until his appointment as Wakf Commissioner is duly determined or until the conditions of his service are duly altered by the State Government.

(7) The State Government may, after consultation with the Board grant leave of absence to the Wakf Commissioner.

(8) The salaries and allowances to be drawn by the Wakf Commissioner during the period of his leave of absence shall be specified by the State Government :

Provided that such salaries and allowances shall not be less than the salaries and allowances which he would have drawn had he not been appointed as the Wakf Commissioner.

(9) Whenever leave of absence is granted to the Wakf Commissioner the State Government may appoint any other person who fulfils the conditions specified in sub-section (1) to act as the Wakf Commissioner during the period of such leave, and the salaries and allowances of the person so appointed shall be fixed by the State Government, and such salaries and allowances shall not be less than the salaries and allowances which he would have drawn had he not been so appointed.

(10) The Wakf Commissioner may resign his office by writing under his own hand addressed to the State Government.

(11) The State Government may give directions to any Wakf Commissioner as to the carrying into execution in the State of any of the provisions of this Act or of any order or direction made thereunder and may also call for from the Wakf Commissioner such information as it may think fit."

18. *Insertion of new sections 21A, 21B, 21C, 21D, 21E and 21F*—After section 21 of the principal Act, the following sections shall be inserted, namely :—

"21A. *Removal of the Wakf Commissioner.*—(1) If at any time it appears to the State Government that the Wakf Commissioner is unsuitable for his office or has been guilty of misconduct or neglect of duties, which renders his removal from the office of Wakf Commissioner necessary in the public interest, the State Government may, by notification in the Official Gazette, remove him from such office :

Provided that the Wakf Commissioner shall not be so removed from the office as such except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) Whenever the Wakf Commissioner is removed, or resigns, from his office as Wakf Commissioner, the State Government shall appoint a suitable person who fulfils the conditions specified in sub-section (1) of section 21 as the Wakf Commissioner.

21B. *Powers to make appointments, etc., to vest in the Wakf Commissioner.*—(1) The Wakf Commissioner and the Board shall have the assistance of such number of officers and other employees as may be necessary for the efficient performance of his or its functions under this Act.

(2) The powers of appointment of officers and other employees of the Board and of promoting and granting leave to such officer and other

employees and of reducing them in rank or suspending or dismissing them for misconduct shall vest in the Wakf Commissioner :

Provided that the Wakf Commissioner shall not appoint any person to a post carrying minimum monthly salary (exclusive of allowances) exceeding one thousand rupees per month except with the previous approval of the Board :

Provided further that where any officer or other employee holding a post carrying a minimum monthly salary (excluding allowances) exceeding five hundred rupees is reduced in rank or suspended or dismissed by the Wakf Commissioner, such officer or other employee may, within thirty days from the date of the order, prefer an appeal to the Board against the order of the Wakf Commissioner and the decision of the Board shall be final.

21C. Duties and other powers of the Wakf Commissioner.—(1) Subject to the provision of this Act and of the rules made thereunder, the functions of the Wakf Commissioner shall include,—

(a) investigating the nature and extent of the wakfs and wakf properties, and causing whenever necessary, an inventory of wakf properties and calling, from time to time for accounts, returns and informations from mutawallis ;

(b) inspecting or causing the making of inspection of, wakf properties, accounts, records or deeds or documents relating thereto ;

(c) doing, generally, all such acts as may be necessary for the due control maintenance and administration of wakfs.

(2) In exercising his powers under this Act in respect of any wakf, the Wakf Commissioner shall act in conformity with the directions given by the wakf in the deed of wakf, the purpose of the wakf and such usages and customs of the wakf as are sanctioned by Muslim law.

(3) Save as otherwise expressly provided in this Act, the Wakf Commissioner shall exercise such powers and perform such duties as may be assigned to him or delegated to him by the Board under section 22.

21D. Power of the Wakf Commissioner not to implement orders or resolutions of the Board in certain cases.—Where the Wakf Commissioner considers that an order or resolution passed by the Board—

(a) has not been passed in accordance with law ; or

(b) is in excess of, or is an abuse of, the powers conferred on the Board by or under this Act or by any other law ; or

(c) if implemented, is likely to—

(i) cause financial loss to the Board or to the concerned wakf or to the wakfs generally, or

(ii) cause danger to human life, health or safety, or

(iii) lead to a riot or breach of the peace, or

(d) is not beneficial to the Board or in any wakf or to wakfs generally,

he may, without implementing such order or resolution place the matter before the State Government alongwith a note pointing out the objections which he has to the order or resolution, as the case may be, and the orders of the State Government thereon shall be final and binding on the Board and the Wakf Commissioner.

21E. Delegation of powers by the Wakf Commissioner.—(1) The Wakf

Commissioner may delegate such of the administrative, accounting or auditing powers conferred on him by this Act, to the Area Committee, established by the Board, as may be necessary, and may, at any time, revoke the delegation so made by him.

(2) Subject to the control of the Wakf Commissioner and general or special directions given or imposed by him, the Area Committee authorised by the Wakf Commissioner to exercise any power, may exercise these powers in the same manner and to the same extent as if they have been conferred on that Committee directly by this Act and not by way of delegation.

21F. Construction of reference with regard to exercise of powers by the Wakf Commissioner—Any reference in this Act to the exercise of any power by the Wakf Commissioner shall be construed as a reference to the exercise by him of those powers which he is empowered by or under this Act to exercise.”

19. Substitution of section 22—For section 22 of the principal Act, the following section shall be substituted, namely :—

“22. Delegation of powers by the Board.—The Board may, from time to time, by an order, authorise the Wakf Commissioner to exercise and perform, subject to the control of the Board, such of the powers and duties conferred or imposed on the Board by or under this Act, as may be specified in such order, and may at any time revoke the authorisation so made by it, and where any such authorisation is made, the Wakf Commissioner may exercise those powers and duties in the same manner and to the same extent as if they have been conferred on him directly by this Act and by way of authorisation.”

20. Insertion of new sections 22A and 22B.—After section 22 of the principal Act, the following sections shall be inserted, namely:—

“22A. Wakf Commissioner may exercise powers through Collectors, etc.—Subject to the provisions of this Act and of the rules made thereunder, the Wakf Commissioner may exercise all or any of the powers conferred on him by or under this Act, through the Commissioner of the Division or the Collectors of the district in which the concerned wakf property is situate, or through any other person whom he may appoint for such purpose, and may from time to time, delegate any of his powers to any such Commissioner of the Division or Collector or any other person and may at any time revoke the delegation so made by him, and where any such delegation of powers is made by the Wakf Commissioner, the person to whom such delegation is made may exercise those powers in the same manner and to the same extent as if they have been conferred on him directly by this Act and not by way of delegation.

22B. Powers of Wakf Commissioner to inspect records, registers, etc.—The Wakf Commissioner or any officer of the Board duly authorised by him in this behalf shall, subject to such conditions and restrictions as may be prescribed and subject to the payment of such fees as may be leviable under any law for the time being in force, be entitled at all reasonable time to inspect, in any public office, any records, registers or other documents relating to a wakf or movable or immovable properties which are wakf properties or are claimed to be wakf properties.”

21. Amendment of section 23.—In section 23 of the principal Act,—

(a) in sub-section (1), for the words "The Board may allow inspection of its proceedings or other records in its custody", the words "The Wakf Commissioner may allow inspection of the proceedings of the Board or other records in his custody" shall be substituted ;

(b) in sub section (2), for the words "Secretary of the Board" the words "Wakf Commissioner" shall be substituted ;

(c) in sub-section (3),—

(i) for the word "Secretary", the words "Wakf Commissioner" shall be substituted ;

(ii) for the words "authorised in this behalf by the Board", the words "authorised in this behalf by the Wakf Commissioner" shall be substituted.

22. *Amendment of section 25.*—In section 25 of the principal Act,—

(a) for the word "Board", wherever it occurs, the words "Wakf Commissioner" shall be substituted ;

(b) in sub-section (6), for the words "it may consider" the words "he may consider" shall be substituted ;

(c) in sub-section (7), for the words "as it thinks fit", the words "as he thinks fit" shall be substituted ;

(d) after sub-section (8), the following sub-sections shall be inserted, namely :—

"(9) Every wakf registered under this section before the commencement of the Wakf (Amendment) Act, 1984 shall be deemed to have been registered on such commencement, at the office of the Wakf Commissioner.

(10) Every application for registration under this section pending immediately before the commencement of the Wakf (Amendment) Act, 1984 before the Board shall, on such commencement, stand transferred to the Wakf Commissioner and the Wakf Commissioner shall deal with such application as if it were an application pending before him."

23. *Amendment of section 26.*—Section 26 of the principal Act shall be renumbered as sub-section (1) of that section, and

(a) in sub-section (1) as so renumbered, for the word "Board", the words "Wakf Commissioner" shall be substituted ;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) The register of wakfs maintained under this section immediately before the commencement of the Wakf (Amendment) Act, 1984 shall be deemed, on such commencement, to be the register maintained by the Wakf Commissioner under sub-section (1)."

24. *Insertion of new sections 26A and 26B.*—After section 26 of the principal Act, the following sections shall be inserted, namely :—

"26A. *Power of Wakf Commissioner to appoint Executive Officers.*—

(1) Notwithstanding anything contained in this Act, the Wakf Commissioner may, if he is of opinion that it is necessary so to do in the interest of wakfs, appoint, subject to such conditions as may be prescribed, Executive Officers for every wakf having a gross annual income of not less than fifty thousand rupees.

(2) Every Executive Officer appointed under sub-section (1) shall exercise such powers and discharge such duties as pertain only to the adminis-

tration of the property of the wakf for which he has been appointed and shall exercise those powers and discharge those duties under the direction, control and supervision of the Wakf Commissioner :

Provided that the Executive Officer who is appointed for a wakf having a gross annual income of not less than sixty thousand rupees, shall ensure that the budget of the wakf is submitted, the accounts of the wakf are regularly maintained, and the yearly statement of accounts are submitted positively within such time as the Wakf Commissioner may specify.

(3) While exercising his powers and discharging his functions under sub-section (2), the Executive Officer shall not interfere with any religious duties or any usage or custom of the wakf sanctioned by the Muslim law.

(4) The salaries and allowances of the Executive Officer shall be fixed by the Wakf Commissioner in accordance with the rules made in this behalf under section 67 and in fixing the quantum of such salary the Wakf Commissioner shall have due regard to the income of the wakf, the extent and nature of the duties of the Executive Officer and shall also ensure that the amount of such salaries and allowances are not disproportionate to the income of the wakf and do not operate as an unnecessary financial burden on it :

(5) The salaries and allowances of the Executive Officer shall be paid from the funds of the concerned wakf.

(6) The Wakf Commissioner may, for good and sufficient reasons, and after giving to the Executive Officer a reasonable opportunity of being heard, suspend, remove or dismiss him from his post as such Executive Officer.

(7) Any Executive Officer who is aggrieved by any order of removal or dismissal made under sub-section (6) may, within thirty days from the date of communication of the order to him, prefer an appeal against the order to the Tribunal and the Tribunal may, after considering such representation as the Wakf Commissioner may make in the matter, and after giving a reasonable opportunity to the Executive Officer of being heard, confirm, modify or reverse the order.

(8) For the removal of doubts, it is hereby declared that—

(a) a person may be appointed as the Executive Officer under this section on a whole-time basis or on a part-time basis ;

(b) a person may be appointed as an Executive Officer in an honorary capacity, that is to say, without payment of salary or, as the case may be without payment of salary and of any allowances ;

(c) the same person may be appointed as an Executive Officer under this section for two or more wakfs and where the said person is not appointed in an honorary capacity, the salary and allowances payable to the person so appointed may be paid from the funds of the concerned wakfs, in such manner and in such proportion as the Wakf Commissioner may determine.

26B. Powers of Wakf Commissioner in relation to wakfs which have ceased to exist.—(1) The Wakf Commissioner shall, if he is satisfied that the objects or any part thereof, of a wakf have ceased to exist whether such cesser took place before or after the commencement of the Wakf (Amendment Act, 1984, hold an enquiry, in the prescribed manner, to ascertain the properties and funds pertaining to such wakf and after doing so, shall

pass an order—

(a) specifying the property and funds pertaining to the wakf and for the recovery of such property or funds so specified;

(b) directing that any property or funds pertaining to the wakf which have been recovered shall be applied or utilised for the renovation of any wakf property and where there is no need for making any such renovation or where utilisation of the funds for such renovation is not possible be, appropriated, after obtaining the approval of the Board, to any of the purposes specified in sub-clause (iii) of clause (c) of sub-section (2) of section 15.

(2) The Wakf Commissioner may, if he has any reason to believe that any building or other place which was being used for religious purpose or instruction for charity has whether before or after the commencement of the Wakf (Amendment) Act, 1984, ceased to be used for that purpose, make an application to the Tribunal for an order directing the recovery of possession of such building or other place.

(3) The Tribunal may if it is satisfied, after making such inquiry as it may think fit, that such building or other place—

(a) is wakf property;

(b) has not been acquired under any law for the time being in force relating to acquisition of land or is not under any process of requisition under any such law, or has not vested in the State Government under any law for the time being in force relating to land reforms; and

(c) is not in the occupation of any person who has been authorised by or under any law for the time being in force to occupy such building or other place,

may make an order—

(i) directing the recovery of such building or place from any person who may be in unauthorised possession thereof, and

(ii) directing that such property, building or place be used for religious purpose or instruction as before, or if such use is not possible, be utilised, for any purpose specified in sub-clause (iii) of clause (c) of sub-section (2) of section 15.”

25. *Amendment of section 27.*—After sub-section (2) of section 27 of the principal Act, the following sub-section shall be inserted, namely :—

“(3) Where the Board has any reason to believe that any property of any trust or society registered in pursuance of the Indian Trust Act, 1882 (2 of 1882) or under the Societies Registration Act, 1860 (21 of 1860) or under any other Act, is wakf property the Board may notwithstanding anything contained in such Act, hold an inquiry in regard to such property and, if after such inquiry, the Board is satisfied that such property is wakf property, call upon the trust or society, as the case may be, either to register such property under this Act as wakf property or show cause why such property should not be so registered :

Provided that in all such cases, notice of the action proposed to be taken under this sub-section shall be given to the authority by whom the trust or society had been registered.

(4) The Board shall, after duly considering such cause as may be shown in pursuance of notice issued under sub-section (3), pass such orders as it may think fit and the order so made by the Board, shall be final, unless it is revoked or modified by a civil court of competent jurisdiction.”

26. *Amendment of section 28.*—In section 28 of the principal Act,—

(a) for the word “Board”, the words “Wakf Commissioner” shall be substituted;

(b) for the words “may itself”, the words “may himself” shall be substituted.

27. *Amendment of section 29.*—In section 29 of the principal Act, for the word “Board”, at both the places where it occurs, the words “Wakf Commissioner” shall be substituted.

28. *Amendment of section 31.*—Section 31 of the principal Act shall be renumbered as sub-section (1) thereof, and—

(a) to sub-section (1), as so renumbered, the following proviso shall be added, namely :—

“Provided that where the gross annual income of the wakf exceeds five thousand rupees, such budget shall be submitted to the Wakf Commissioner for his approval.”;

(b) after sub-section (1), as so re-numbered, the following sub-section shall be inserted, namely :—

“(2) The Wakf Commissioner may, after giving notice to the mutawalli in the prescribed manner, and after considering his representations, if any, pass an order making such alterations omissions and additions in the budget as he may think fit and the budget as so approved or modified shall be the budget of the wakf for that year.”

29. *Insertion of new section 31A*—After section 31 of the principal Act, the following section shall be inserted, namely :—

‘31A. *Duties of Wakf Commissioner to prepare budget for wakfs under the direct management of the Board*—(1) The Wakf Commissioner shall, in every year, prepare in such time as may be prescribed, a separate budget for the next financial year for each of the wakfs under the direct management of the Board, showing therein the estimated receipts and expenditure and submit it to the Board for its approval.

(2) While submitting the budgets under sub-section (1), the Wakf Commissioner shall also prepare a statement giving details of the increase, if any, in the income of each wakf under the direct management of the Board and the steps which have been taken for its better management and the results accruing therefrom during the year

(3) The Wakf Commissioner shall keep regular accounts and be responsible for the proper management of every wakf under the direct management of the Board.

(4) Every budget submitted by the Wakf Commissioner under sub-section (1) shall comply with the requirements of section 32, and for this purpose, references therein to the mutawalli of the wakf shall be construed as references to the Wakf Commissioner.

(5) The audit of accounts of every wakf under the direct management of the Board shall be undertaken by the State Examiner of Local Funds or any other officer appointed by the State Government for this purpose, irrespective of the income of the wakf.

(6) The provisions of sub-section (2) and (3) of section 33 and the provisions of sections 34 and 35 shall in so far as they are not inconsistent with the provisions of this section, apply to the audit of accounts referred to in this section.

(7) Where any wakf is under the direct management of the Board, such administrative charges as may be specified by the Wakf Commissioner shall be payable by the wakf to the Board :

Provided that the Wakf Commissioner shall not collect, except with the previous approval of the State Government, more than ten per cent of the gross annual income of the wakf under the direct management of the Board as administrative charges payable to the Board."

30 Amendment of section 33—In section 33 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The accounts of wakfs submitted to the Board under section 32 shall be audited and examined in the following manner, namely :—

(a) in the case of a wakf having no income or a net annual income not exceeding one thousand rupees the submission of a statement of accounts shall be a sufficient compliance with the provisions of section 32, and the accounts of two per cent of such wakfs shall be audited annually by an auditor appointed by the Board ;

(b) the accounts of a wakf having a net annual income exceeding one thousand rupees but not exceeding three thousand rupees shall be prepared in the form of a statement of income and expenditure, supported by properly maintained vouchers and receipts, and shall be audited triennially or at such other intervals as may be prescribed, by an auditor appointed by the Wakf Commissioner ;

(c) the accounts of a wakf having a net annual income exceeding three thousand rupees but not exceeding five thousand rupees shall be audited by an auditor appointed by the Board from out of a panel of auditors prepared by the State Government and such audit shall be made biennially or at such other intervals as may be prescribed and while drawing up such panel of auditors the State Government shall specify the scale of remuneration of the auditors ;

(d) the accounts of a wakf having a net annual income exceeding five thousand rupees, shall be audited by the State Examiner of Local Funds or by any other officer designated for the purpose by the State Government and every such audit shall be made annually or at such other intervals as may be prescribed :

Provided that where the net annual income of the wakf is not less than sixty thousand rupees, the accounts of such wakfs shall be audited concurrently as and when any expenditure is incurred and every such concurrent audit shall be made in accordance with such rules as may be prescribed."

(ii) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) The cost of the audit of the accounts of a wakf shall be met from the funds of that wakf :

Provided that the remuneration of the auditors appointed from out of the panel drawn by the State Government in relation to wakfs having a net annual income of more than three thousand rupees but not less than five thousand rupees shall be paid in accordance with the scale of remuneration specified by the the State Government under clause (c) of sub-section (1) :

Provided further that where the audit of the accounts of any wakf is made by the State Examiner of Local Funds or any other officer designated by the State Government in this behalf, the cost of such audit shall not exceed one and a half per cent of the net annual income of such wakf and such costs shall be met from the funds of the wakf concerned”.

31. *Amendment of Section 34.*—Section 34 of the principal Act shall be renumbered as sub-section (1) thereof, and—

(a) in sub-section (1), as so renumbered,—

(i) after the words “auditor’s report” the words brackets and figures “or where the auditor’s report is submitted after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner shall examine such report” shall be inserted ;

(ii) for the words “shall pass such orders on the report as it thinks fit” the words, brackets and figures “the Board or, as the case may be, the Wakf Commissioner shall pass such orders on the report as it or he may think fit, including orders for the recovery of the amount certified by the auditor under sub-section (2) of section 33” shall be substituted ;

(b) after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely :—

“(2) The mutawalli or any other person aggrieved by any order made by the Board or the Wakf Commissioner under sub-section (1) may, within thirty days of the receipt by him of the order, apply to the Tribunal to modify or set aside the order and the Tribunal may, after taking such evidence as it may think necessary, confirm or modify the order or remit the amount so certified, either in whole or in part, and may also make such order as to costs as it may think appropriate in the circumstances of the case.

(3) No application made under sub-section (1) shall be entertained by the Tribunal unless the amount certified by the auditor under sub-section (2) of section 33 has first been deposited in the Tribunal and the Tribunal shall not have any power to stay the operation of the order made by the Board or the Wakf Commissioner under sub-section (1).

(4) The order made by the Tribunal under sub-section (2) shall be final.

(5) Every amount for the recovery of which any order has been made under sub-section (1), or sub-section (2) shall, where such amount remains unpaid, be recoverable in the manner specified in section 15C or section 15D as if the said order were an order for the recovery of any amount determined under sub-section (3) of section 15B.”.

32. *Amendment of section 35.*—In section 35 of the principal Act, in sub-section (1), for the words “order of the Board”, the words “order of the Board, or the Wakf Commissioner or the Tribunal, as the case may be”, shall be substituted.

33. *Amendment of section 36.*—In section 36 of the principal Act,—

(1) in clause (a), for the words “directions of the Board”, the words “directions made by—

(i) the Board, or

(ii) the Wakf Commissioner,

in accordance with the provisions of this Act or of any rule or order made thereunder” shall be substituted ;

(2) in clause (b), for the words "required by the Board", the words "required by the Board, or the Wakf Commissioner, as the case may be, in accordance with the provisions of this Act or of any rule or orders made thereunder" shall be substituted.

34. *Substitution of section 36A*—For section 36A of the principal Act, the following section shall be substituted, namely :—

"36A. Alienation of wakf property without sanction of Board to be void.—

(1) Notwithstanding anything contained in the wakf deed, any gift, sale, exchange or hypothecation of any immovable property which is wakf property, shall be void unless such gift, sale, exchange or hypothecation is effected with the prior sanction of the Board.

(2) The Board may, after publishing in the Official Gazette, the particulars relating to the transaction referred to in sub-section (1) and inviting any objections and suggestions with respect thereto and considering all objections and suggestions, if any, that may be received by it from the concerned mutawalli or any other person interested in the wakf, accord sanction to such transaction if it is of opinion that such transaction is—

- (i) necessary or beneficial to the wakf ;
- (ii) consistent with the objects of the wakf ;
- (iii) the consideration thereof is reasonable and adequate :

Provided that the sale of any property sanctioned by the Board shall be effected by public auction and shall be subject to confirmation by the Board within such time as may be prescribed :

Provided further that the Tribunal may, on the application of the aggrieved mutawalli or other person, for reasons to be recorded by it in writing, permit such sale to be made otherwise than by public auction, if it is of opinion that it is necessary so to do in the interest of the wakf.

(3) The utilisation or investment of the amount realised by the sale, exchange or hypothecation of any property shall be made by the mutawalli subject to the approval of the Board, and where any amount has been raised by mortgage, of any such property, the mutawalli or other person shall make repayment of the mortgage-debt and obtain a discharge of the mortgage-debt from the mortgagee within such reasonable time as the Board may specify.

(4) Every approval given by the Board under sub-section (3) shall be communicated to the mutawalli and shall also be published in the prescribed manner.

(5) The mutawalli or any other person having an interest in the wakf who is aggrieved by the decision given under sub-section (3), may, within ninety days from the date of communication to him of the such decision or the publication of the decision, as the case may be, prefer an appeal to the Tribunal against such decision, and, thereupon, the Tribunal may, after giving the appellants and the Board or the Wakf Commissioner, as the case may be, a reasonable opportunity of being heard, confirm, modify or set aside such decision."

35. *Insertion of new sections 36C, 36D 36E and 36F.*—After section 36B of the principal Act, the following sections shall be inserted, namely :—

"36C. Restriction on purchase of property on behalf of the wakf.—Notwithstanding anything contained in a wakf deed, no immovable property shall be purchased for or on behalf of any wakf from the funds of any wakf

except with the prior sanction of the Wakf Commissioner, and the Wakf Commissioner shall not accord such sanction unless he considers that the acquisition of such property is necessary or beneficial to the wakf and that the price proposed to be paid therefor is adequate and reasonable :

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in the Official Gazette inviting objections and suggestions with respect thereto and, the Wakf Commissioner shall, after considering the objections and suggestions that may be received by him from mutawallis or other persons interested in the wakf, make such orders as he may think fit.

35D. Removal of encroachments from wakf property.—(1) Whenever the Wakf Commissioner considers, whether on receiving any complaint or on his own motion, that there has been an encroachment on any land, building, space or other property which is wakf property and, which has been registered as such under this Act, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling upon him to show cause before a date to be specified in the notice, as to why an order requiring him to remove the encroachment before the date so specified should not be made and shall also send a copy of such notice to the concerned mutawalli.

(2) The notice referred to in sub-section (1) shall be served in such manner as may be prescribed.

(3) If after considering the objections, received during the period specified in the notice, and after conducting an inquiry in such manner as may be prescribed, the Wakf Commissioner is satisfied that property in question is wakf property and that there has been an encroachment on any such wakf property, he may, by an order require the encroacher to remove such encroachment and deliver possession of the land, building, space or other property encroached upon to the mutawalli of the wakf.

Explanation.—In this section and in section 36E, “encroacher” means the person by whom any encroachment has been made on any land, building space or other property which is wakf property.

(4) Nothing contained in sub-section (3) shall prevent any person aggrieved by the order made by the Wakf Commissioner under that sub-section from instituting a suit in a court of law to establish that he has right, title or interest in the land, building, space or other property :

Provided that no such suit shall be instituted by a person who has been let into possession of the land, building space or other property as a lessee, licensee or mortgagee by the mutawalli of the wakf or by any other person authorised by him in this behalf.

36E. Enforcement of the order made under section 36D.—Where, the person, ordered under sub-section (3) of section 36D to remove any encroachment, omits or fails to remove such encroachment within the time specified in the order or, as the case may be, fails to vacate the land, building, space or other property to which the order relates, within the time aforesaid, the Wakf Commissioner may apply to the Sub-Divisional Magistrate within the local limits of whose jurisdiction the land, building, space or other property is situate for evicting the encroacher, and, thereupon, the Magistrate shall make an order directing the encroacher to remove the encroachment, or, as the case may be, vacate the land, building, space or other property, and to deliver possession thereof, to the concerned mutaw-

alli, and in default of compliance with the order, remove the encroachment or, as the case may be, evict the encroacher from the land, building, space or other property and may, for this purpose, take such police assistance as may be necessary.

36F. Restrictions on the powers to grant lease of wakf property.—(1) A lease or sub-lease for any period exceeding three years of any immovable property which is wakf property shall notwithstanding anything contained in the deed or instrument of wakf or in any other law for the time being in force, be void and of no effect.

(2). A lease or sub-lease for a period exceeding one year and not exceeding three years of any immovable property which is wakf property shall, notwithstanding anything contained in the deed or, instrument of wakf or in any other law for the time being in force, be void and of no effect unless it is made with the previous sanction of the Board.

(3) The Board shall, in granting sanction for the making or renewal of lease under this section review the terms and conditions on which the lease or sub-lease is proposed to be granted or renewed and make its approval subject to the revision of such terms and conditions in such manner as it may direct.’.

36. Amendment of section 38.—In section 38 of the principal Act —

(a) in sub-section (1), for the word “Board”, the words, brackets and figures “the Board”, or where such refusal or failure occurs after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner”, shall be substituted ;

(b) in sub-section (2), for the word “Board”, the word “Board, or, as the case may be, the Wakf Commissioner” shall be substituted.

37. Amendment of section 39.—In section 39 of the principal Act, for the words “the Board may direct the creation and maintenance, in such manner as it may think fit”, the words ‘the Wakf Commissioner may direct the creation and maintenance, in such manner as he may think fit” shall be substituted.

38. Amendment of section 40.—In section 40 of the principal Act, for the words “The Board may, if it is satisfied”, the words “The Wakf Commissioner may, if he is satisfied” shall be substituted.

39. Amendment of section 41.—In section 41 of the principal Act,—

(a) in sub-section (1), for the words “fine which may extend to one thousand rupees”, the words “fine which may extend to two thousand rupees” shall be substituted ;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) Notwithstanding anything contained in sub-section (1), if,—

(a) a mutawalli omits or fails, with a view to concealing the existence of a wakf, to apply for its registration under this Act,—

(i) in the case of a wakf created before the commencement of the Wakf (Amendment) Act, 1984, within the period specified therefor in sub-section (8) of section 25 or within a period of one month from such commencement, whichever period expires later; or

(ii) in the case of any wakf created after such commencement, within three months from the date of the creation of the wakf; or

(b) a mutawalli furnishes any statement, return or information to the Wakf Commissioner or the Board, as the case may be, which he knows or has reason to believe to be false, misleading, untrue or incorrect in any material particular,

he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to five thousand rupees.”;

(c) in sub-section (2), for the words “made by the Board or an officer duly authorised by the Board”, the words “made by the Board or the Wakf Commissioner or by an officer duly authorised by the Board or the Wakf Commissioner” shall be substituted;

(d) in sub-section (3), for the words “presidency magistrate or a magistrate of the first class”, the words “Metropolitan Magistrate or a Judicial Magistrate of the first class” shall be substituted;

(e) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the fine imposed under sub-section (1), when realised, shall be credited to the Wakf Fund.

(5) In every case where an offender is convicted after the commencement of the Wakf (Amendment) Act, 1984, of an offence punishable under sub-section (1) and sentenced to a fine, the court shall also impose such term of imprisonment in default of payment of fine as is authorised by law for such default.”.

40. Insertion of new sections 41A and 41B.—After section 41 of the principal Act, the following sections shall be inserted, namely:—

“41A. *Mutawalli not to spend any money belonging to a wakf for defending himself.*—No Mutawalli shall spend any money out of the funds of the wakf, of which he is the mutawalli, for meeting any costs, charges or expenses which are, or may be, incurred by him, in relation to any suit, appeal or any other proceeding for, or incidental to, his removal from office or for taking any disciplinary action against himself.

41B. *Power of Board to determine by whom costs, etc. shall be paid.*—The Board shall determine by whom or out of which fund and to what extent any costs, charges or expenses, for or incidental to, any appeal or other proceeding before the Board, shall be paid, and the order for payment made by the Board shall be deemed to be an order passed by a civil court and may be sent by the Board for execution to the court within the local limits of whose jurisdiction the person who is so ordered to make such payment voluntarily resides or carries on business or personally works for gain and the court to which the order is so sent for execution shall execute such order as is it were an order made by it.”.

41. Amendment of section 43.—In section 43 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), for the words “moral turpitude”, the words “moral turpitude, and such conviction has not been reversed and he has not been granted full pardon with respect to such offence,” shall be substituted;

(ii) clause (c) shall be omitted;

(iii) clause (e) shall be omitted,

(iv) after clause (e), as so omitted, the following clauses shall be inserted, namely:—

“(f) is an undischarged insolvent; or
 (g) is proved to be addicted to drinking liquor or other spirituous preparations, or is addicted to the taking of any narcotic drugs; or
 (h) is employed as a paid legal practitioner on behalf of, or against the wakf; or

(i) has failed, without reasonable excuse, to maintain regular accounts for two consecutive years or has failed to submit, in two consecutive years, the yearly statement of accounts, as required by sub-section (2) of section 32; or

(j) is interested, directly or indirectly, in a subsisting lease in respect of any wakf property, or in any contract made with, or any work being done for, the wakf or is in arrears in respect of any sum due by him to such wakf; or

(k) continuously neglects his duties or commits any misfeasance, malfeasance misapplication of funds or breach of trust in relation to the wakf or in respect of any money or other wakf property; or

(l) wilfully and persistently disobeys the lawful orders made by the Central Government, State Government, Board or Wakf Commissioner under any provision of this Act or rule or order made thereunder.”;

(b) sub-section (2) shall be omitted ;

(c) in sub-section (4),—

(i) the words, brackets and figure “or sub-section (2)” shall be omitted ;

(ii) for the word “three-fourths”, the word “two-thirds” shall be substituted ;

(d) for sub-section (4A), the following sub-section shall be substituted, namely :—

“(4A) A mutawalli who is aggrieved by an order passed under any of the clauses (d) to (l) of sub-section (1), may, within one month from the date of the receipt by him of the order, appeal against the order to the Tribunal and the decision of the Tribunal on such appeal shall be final.” ;

(e) after sub-section (4A), the following sub-sections shall be inserted, namely :—

“(4B) Where any inquiry under sub-section (4) is proposed or commenced, against any mutawalli, the Board may, if it is of opinion that it is necessary so to do in the interests of the wakf, by an order suspend such mutawalli, until the conclusion of the inquiry :

Provided that no suspension for a period exceeding ten days shall be made except after giving the mutawalli a reasonable opportunity of being heard against the proposed action.

(4C) Where any appeal is filed by the mutawalli to the Tribunal under sub-section (4A), the Wakf Commissioner may make an application to the Tribunal for the appointment of a receiver to manage the wakf pending the decision of the appeal, and where such an application is made, the Tribunal shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), appoint a suitable person as receiver to manage the wakf and direct the receiver so appointed to ensure that the customary or religious rights of the mutawalli and of the wakf are safeguard” ;

(f) in sub-section (5), the words, brackets and figure “or sub-section (2)” shall be omitted.

42. *Substitution of section 43A.*—For section 43A of the principal Act, the following section shall be substituted, namely :—

“43A *Assumption of direct management of certain wakfs by the Board* —

(1) Where no suitable person is available for appointment as a mutawalli of a wakf or where the Board is satisfied, for reasons to be recorded by it in writing, that the filling up of the vacancy in the office of a mutawalli is prejudicial to the interests of the wakf, the Board may, by notification in the Official Gazette, assume direct management of the wakf for such period or periods, not exceeding five years in the aggregate, as may be specified in the notification.

(2) The State Government may, on its own motion or on the application of any person interested in the wakf, call for the records of any case for the purpose of satisfying itself as to the correctness, legality or propriety of the notification issued by the Board under sub-section (1) and pass such orders as it may think fit and the order so made by the State Government shall be final and shall be published in the manner specified in sub-section (1).

(3) As soon as possible after the close of every financial year, the Board shall send to the State Government, a detailed report in regard to every wakf under its direct management, giving therein :—

(a) the details of the income of the wakf for the year immediately preceding the year under the report ;

(b) the steps taken to improve the management and income of the wakf ;

(c) the period during which the wakfs has been under the direct management of the Board and explaining the reasons as to why it has not been possible to entrust the management of the wakf to the mutawalli or any committee of management during the year ; and

(d) such other matters as may be prescribed.

(4) The State Government shall examine the report submitted to it under sub-section (3) and, after such examination, issue such directions or instructions to the Board as it may think fit and the Board shall comply with such instructions on receipt thereof.”

43. *Insertion of new sections 43B to 43F.*—After section 43A of the principal Act, the following sections shall be inserted, namely :—

“43B. *Powers of appointment and removal of mutawalli when to be exercised by the State Government.*—Whenever a deed of wakf or any decree or order of a court or any scheme of management of any wakf provides that a court or any authority other than a Board may appoint or remove a mutawalli or settle or modify such scheme of management or otherwise exercise superintendence over the wakf, then notwithstanding anything contained in such deed of wakf, decree, order or scheme, the powers aforesaid shall be exercisable by the State Government.

“43C. *Supervision and supersession of Committee of Management.*—(1) Whenever the supervision or management of a wakf is vested in any committee appointed by the wakf, then, notwithstanding anything contained in this Act, such committee shall continue to function until it is superseded by the Board or until the expiry of such term as may be specified by the wakf, whichever is earlier :

Provided that such committee shall function under the direction, control and supervision of the Board and of the Wakf Commissioner, and abide

by such directions as the Board or, as the case may be, the Wakf Commissioner may issue from time to time :

Provided further that if the Wakf Commissioner is satisfied that any scheme for the management of a wakf by a committee is inconsistent with any provision of this Act or of this Act or of any rule made thereunder or with the directions of the wakif, he may, at any time, modify the scheme in such manner as may be necessary to bring it in conformity with the directions of the wakf or of the provisions of this Act and the rules made thereunder.

(2) notwithstanding anything contained in this Act and in the deed of wakf, the Board may, if is satisfied, for reasons to be recorded by it in writing, that a committee referred to in sub-section (1) is not functioning properly and satisfactorily or that the wakf is being mismanaged and that in the interests of its proper management, it is necessary so to do, by an order, supersede such committee and, on such supersession, any direction of the wakf, in so far as it relates to the constitution of the committee, shall cease to have any force :

Provided that the Board shall, before making any order superseding any committee, issue a notice setting forth therein the reasons for the proposed action and calling upon the committee to show cause within such time not being less than one month, as may be specified in the notice, as to why such action shall not be taken.

(3) Every order made by the Board under sub-section (2) shall be published in the prescribed manner and on such publication shall be binding on the mutawalli and all persons having any interest in the wakf.

(4) Any order made by the Board under sub-section (2) shall be final :

Provided that any person aggrieved by the order made under sub-section (2) may, within sixty days from the date of the order, make an application to the Tribunal for the adjudication of the matter ;

Provided further that the Tribunal shall have no power to suspend the operation of the order made by the Board pending such adjudication.

(5) The Board shall, whenever it supersedes any committee under sub-section (2), constitute a new committee of management simultaneously with the order made by it under sub-section (2).

(6) Notwithstanding anything contained in the foregoing sub-sections, the Board may, instead of superseding any committee under sub-section (2), remove any member thereof if it is satisfied that such member has abused his position as such member or had knowingly acted in a manner prejudicial to the interests of the wakf, and every such order for the removal of any member shall be served upon him by registered post :

Provided that no order for the removal of the member shall be made unless he has been given a reasonable opportunity of showing cause against the proposed action :

Provided further that any member aggrieved by any order for his removal from the membership of the committee, may, within a period of thirty days from the date of service of the order on him, prefer an appeal against such order to the Tribunal, and the Tribunal may, after giving a reasonable opportunity to the appellant and the Board of being heard, confirm, modify or reverse the order made by the board and the order made by the Tribunal in such appeal shall be final.

43D. Matters which an order for removal of mutawalli or committee shall contain—Whenever any order is made in accordance with the provisions of this Act for the removal of a mutawalli or committee, such order shall direct the removed mutawalli or the removed committee, as the case may be, to hand over charge, and to deliver possession of records accounts and all properties of the wakf (including cash) to the successor mutawalli or the successor committee, as the case may be, and shall also specify therein a date on or before which such charge shall be handed over and such delivery of possession shall be made.

43E. Duty of mutawalli or committee to deliver possession of records, etc.—(1) Where any mutawalli or committee of management has been removed by the Board in accordance with the provisions of this Act, or of any scheme made by the Board, the mutawalli or the committee, as the case may be, who or which has been so removed from office (hereinafter in this section referred to as the removed mutawalli or removed committee, as the case may be) shall hand over charge and deliver possession of the records, accounts and all properties of the wakf (including cash) to the successor mutawalli or the successor committee, as the case may be, within one month from the date specified in the order whereby the removed mutawalli or removed committee has been directed to hand over charge and to deliver possession of records, accounts and all properties of the wakf (including cash), to the successor mutawalli or successor committee, as the case may be.

(2) Where any removed mutawalli or removed committee fails to deliver charge or deliver possession of the records, accounts and properties (including cash) to the successor mutawalli or successor committee within the time specified in sub-section (1), or prevents or obstructs such mutawalli or committee, from period obtaining possession thereof after the expiry of the aforesaid, the successor mutawalli or any member of the successor committee may make an application, accompanied by—

(a) certified copy of the order appointing such successor mutawalli or successor committee, and

(b) a certificate issued by the Wakf Commissioner specifying such failure, or obstruction, to any Magistrate of the first class within the local limits of whose jurisdiction any part of the wakf property is situate, and thereupon, the Magistrate may, after giving notice to the removed mutawalli or members of the removed committee, make an order directing the delivery of charge and also delivery of possession of such records, accounts and properties (including cash) of the wakf to the successor mutawalli or the successor committee, as the case may, be within such time as may be specified in the order.

(3) Where the removed mutawalli or any member of the removed committee, omits or fails to deliver charge or to deliver possession of the records, accounts and properties (including cash) within the time specified by the Magistrate under sub-section (2), the removed mutawalli or every member of such removed committee, as the case may be, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(4) Whenever any removed mutawalli or any member of the removed committee omits or fails to comply with the orders made by a Magis-

trate under sub-section (2), the Magistrate may authorise the successor mutawalli or successor committee, as the case may be, to take over charge and also to take possession of such records, accounts or properties (including cash) and may authorise such person to take such police assistance as may be necessary for the purpose

(5) No order of appointment of the successor mutawalli or successor committee, and no certificate granted by the Wakf Commissioner under sub-section (2), shall be called in question in the proceedings before the Magistrate under this section.

(6) Nothing contained in this section shall bar the institutions of any suit in a competent civil court by any person aggrieved by any order made under this section, to establish that he has right, title and interest in the properties specified in the properties specified in the order made by the Magistrate under sub-section (2).

43F. Power of Wakf Commissioner to frame scheme for the administration of a wakf—(1) Whenever the Wakf Commissioner is satisfied, whether on his own motion or on the application of not less than five persons interested in any wakf, that it is necessary or desirable to frame a scheme for the proper administration of the wakf, he may, after consultation in the prescribed manner with the mutawalli of the wakf; and where any application is made to him, with the applicants, by an order frame such scheme for the administration of the wakf.

(2) A scheme framed under sub-section (1) may provide for the removal of the mutawalli of the wakf holding office as such immediately before the date on which the scheme comes into force :

Provided that where any such schemes provides for the removal of any hereditary mutawalli, the scheme shall also provide for the appointment of the person next in hereditary succession to the mutawalli so removed as one of the members of the committee appointed for the proper administration of the wakf.

(3) Every order made under sub-section (2) shall be published in the prescribed manner, and, on such publication, shall be final and binding on the mutawalli and all persons interested in the wakf :

Provided that any person aggrieved by an order made under sub-section (1) or sub-section (2) may, within sixty days from the date of the order, prefer an appeal to the Tribunal and after hearing such appeal, the Tribunal may confirm, reverse or modify the order :

Provided further that the Tribunal shall have no power to make any order staying the operation of the order made under sub-section (1) or sub-section (2).

(4) The Wakf Commissioner may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme which has been framed under this section.

(5) Pending the framing of the scheme for the proper administration of the wakf, the Wakf Commissioner may appoint a suitable person to perform all or any of the functions of the mutawalli thereof and to exercise the powers, and perform the duties of such mutawalli."

44. Amendment of section 44.—In section 44 of the principal Act,—

(i) for the word "Board", at both the places where it occurs, the words "Wakf Commissioner" shall be substituted ;

(ii) for the words "it shall take such action thereon as it thinks fit", the words "he shall take such action thereon as he thinks fit" shall be substituted.

45. Amendment of section 45.—In section 45 of the principal Act,—

(a) in sub-section (1)—

(i) for the word "Board", the words "Wakf Commissioner" shall be substituted ;

(ii) for the words "its own motion", the words "his own motion", shall be substituted ;

(iii) for the words "as it thinks fit" the words "as he thinks fit", shall be substituted ;

(b) in sub-section (2), for the words "the Board or any person authorised by it", the words "the Wakf Commissioner or any person authorised by him" shall be substituted ;

(c) after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) The Wakf Commissioner holding any inquiry under sub-section (1), shall be deemed to be a person acting judicially within the meaning of the Judicial Officers Protection Act, 1850 (18 of 1850)".

46. Amendment of section 46 —In section 46 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The mutawally of every wakf, the net annual income of which is not less than one thousand rupees, shall pay annually, out of the net annual income derived by the wakf, such contribution not exceeding six per cent of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the wakf.

Explanation I.—For the purpose of this Act, "net annual income" shall mean the gross income of the wakf from all sources, including *nazars* and offerings which do not amount to contributions to the corpus of the wakfs, in a year after deducting therefrom, the following namely :—

(i) the land revenues paid by it to the Government, including cesses paid to local authorities ;

(ii) the rates, taxes and licence fees, if any, paid by it to the Government or any local authority ;

(iii) expenditure incurred for all or any of the following purposes, namely :—

(a) maintenance of, or repairs to, irrigation works, which shall not include the capital cost of irrigation ;

(b) seeds or seedlings ;

(c) manure ;

(d) purchase, and maintenance of agricultural implements ;

(e) maintenance of, or repairs to, irrigation, works, cultivation ;

(f) wages for ploughing, watering, sowing, transplanting, harvesting, threshing and other agricultural operations :

Provided that the total deduction in respect of an expenditure incurred under this clause shall not exceed ten per cent of the income derived from the lands belonging to the wakf ;

(iv) expenditure on sundry repairs to rented buildings, not exceeding five per cent of the annual rent derived therefrom, or the actual expenditure, whichever is less ;

(v) sale proceeds of immovable properties or rights relating to, or arising out of, immovable properties, if such proceeds are re-invested to earn income for the wakf :

Provided that the following items of receipts shall not be deemed to be income for the purposes of this section, namely :—

(a) advances and deposits recovered and loans taken or recovered ;

(b) deposit made as security by employees, lessees or contractors and other deposits, if any ;

(c) withdrawals from banks or of investments ;

(d) amounts recovered towards cost awarded by courts ;

(e) sale proceeds of religious books and publications where such sales are undertaken as an unremunerative enterprise with a view to propagating religion ;

(f) donations in cash or kind or offerings made by the donors as contribution to the corpus of the wakf :

Provided that the interest on income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income ;

(g) voluntary contributions received in cash or kind for a specific service to be performed by the wakf and expended on such service ;

(h) audit recoveries.

Explanation II.—In determining the net annual income for the purposes of this section, only the net profit derived by any wakf from its remunerative undertakings, if any, shall be taken as income, and in respect of its non-remunerative undertakings, such as, schools, colleges, hospitals, poor homes, orphanages or any other similar institutions, the grants given by the Government or any local authority or donations received from the pupils of educational institutions shall not be taken as income ;

(b) in sub-section (2), for the words “any particular wakf” the words “any mosque or orphanage or any particular wakf” shall be substituted ;

(c) after sub-section (5), the following sub-sections shall be inserted, namely :—

“(6) Where, after the commencement of the Wakf (Amendment) Act, 1984, the mutawalli of a wakf fails to submit a return of the net annual income of the wakf within the time specified therefore or submits a return which in the opinion of the Wakf Commissioner, is incorrect or false in any material particular, or which does not comply with the provisions of this Act or any rule or order made thereunder, the Wakf Commissioner may, assess the annual income of the wakf to the best of his judgment or revise the net annual income as shown in the return submitted by the mutawalli and the net annual income as so assessed or revised shall be deemed to be the net annual income of the wakf for the purposes of this section :

Provided that no assessment of net annual income or revision of return submitted by mutawalli shall be made except after giving a notice to the mutawalli calling upon him to show cause, within the time specified in the notice, as to why such assessment or revision of the return shall not be made and every such assessment or revision shall be made after considering the reply, if any, given by the mutawalli.

(7) Any mutawalli who is aggrieved by the assessment or revision made by the Wakf Commissioner under sub-section (6) may prefer an appeal to the State Government within thirty days from the date of the receipt of the assessment or revision of return and the State Government may, after giving the appellant and the Wakf Commissioner a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return and the decision of the State Government shall be final.

(8) If, for any reason, the contribution or any portion thereof leviable under this section has escaped assessment in any year, whether before or after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner may, within five years from the last date of the year to which such escaped assessment relates, serve upon the mutawalli a notice assessing him with the contribution or portion thereof which had escaped assessment, and demanding payment thereof within thirty days from the date of service of such notice and the provisions of this Act and the rules made thereunder, shall, as far as may be, apply as if the assessment were made under this Act in the first instance."

47. Insertion of new sections 46A and 46B.—After section 46 of the principal Act, the following sections shall be inserted, namely:—

"46A. Power of Wakf Commissioner to direct banks, etc., to make payment.—(1) Notwithstanding anything contained in any other law for the time being in force, the Wakf Commissioner, if he is satisfied that it is necessary and expedient so to do, make an order directing any bank in which, or any person with whom, any money belonging to a wakf is deposited, to pay the contribution, leviable under section 46, out of such money as may be standing to the credit of the wakf in such bank or may be deposited with such person, or out of the monies which may, from time to time be received by such bank or other person for or on behalf of the wakf by way of deposit, and on receipt of such orders the bank or the other person, as the case may be, shall, when no appeal has been preferred under sub-section (3), comply with such orders, or where an appeal has been preferred under sub-section (3), shall comply with the orders made by the Tribunal on such appeal.

(2) Every payment made by a bank or other person in pursuance of any order made under sub-section (1) shall operate as a full discharge of the liability of such bank or other person in relation to the sum so paid.

(3) Any bank or other person who is ordered under sub-section (1) to make any payment may, within thirty days from the date of the order, prefer an appeal against such order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

(4) Every officer of the bank or other person who fails, without any reasonable excuse, to comply with the order made under sub-section (1) or, as the case may be, under sub-section (3), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend two thousand rupees, or with both.

46B. Deduction of contribution from perpetual annuity payable to the wakf.—(1) Every authority empowered to disburse any perpetual annuity payable to a wakf under any law relating to the abolition of zemindaries or jagirs, or laying down land ceilings, shall, on receipt of a certificate from

the Wakf Commissioner specifying the amount of contribution payable by the wakf under section 46 which remains unpaid, deduct before making payment of the perpetual annuity to the wakf, the amount specified in such certificate, and remit the amount so deducted to the Wakf Commissioner.

(2) Every amount remitted under sub-section (1) to the Wakf Commissioner shall be deemed to be a payment made by the wakf and shall, to the extent of the amount so remitted, operate as a full discharge of the liability of such authority with regard to the payment of the perpetual annuity.”.

48. Insertion of new section 47A.—After section 47 of the principal Act, the following section shall be inserted, namely :—

“**47A. Mutawalli not to lend or borrow moneys without sanction.**—(1) Notwithstanding anything contained in a deed of wakf, no mutawalli, Executive Officer or other person in charge of the administration of a wakf shall lend any money belonging to the wakf or any wakf property or borrow any money for the purposes of the wakf except with the previous sanction of the wakf Commissioner.

(2) The Wakf Commissioner may, while according sanction, specify any terms and conditions subject to which the person referred to in sub-section (1) is authorised by him to lend or borrow any money or lend any other wakf property.

(3) Where any money is lent or borrowed, or other wakf property is lent in contravention of the provisions of this section, it shall be lawful for the Wakf Commissioner—

(a) to recover an amount equal to the amount which has been so lent, or borrowed, together with interest due thereon from the personal funds of the person by whom such amount was lent or borrowed ;

(b) to recover the possession of the wakf property lent in contravention of the provisions of this Act, from the person to whom it was lent or from persons who claim title to such property through the person to whom such property was lent.”.

49. Amendment of section 49.—Section 49 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely :—

“(2) On receipt of the budget forwarded to it under sub-section (1), the State Government shall examine the same and suggest such alterations, corrections, or modifications to be made therein as it may think fit and forward such suggestions to the Board for its consideration.

(3) On receipt of the suggestions from the State Government, the Board may make written representations to that Government with regard to the alterations, corrections or modifications suggested by that Government, and the State Government shall after considering such representations, communicate, within a period of three weeks from the date of receipt thereof, to the Board its final decision in relation to the matter and the decision of the State Government shall be final.

(4) On receipt of the decision of the State Government under sub-section (3), the Board shall incorporate in its budget all the alterations, modifications finally suggested by the State Government and the budget as so altered, corrected or modified, shall be the budget which shall be passed by the Board.”.

50. *Amendment of section 51.*—In sub-section (2) of section 51 of the principal Act, after the words “auditor shall, among other things, specify”, the following words shall be inserted, namely :—

“whether the accounts of every wakf under the direct management of the Board have been kept separately and whether such accounts have been audited annually by the State Examiner of Local Funds and shall also specify”.

51. *Amendment of section 55.*—For section 55 of the principal Act, the following section shall, be substituted, namely :—

“55 *Appointment, powers and jurisdiction of Tribunals.*—(1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit for the determination of any dispute, question or other matter relating a wakf or wakf property which such Tribunal is, or may be, required to determine under this Act or any rule or order made thereunder, and may, by the same or subsequent notification in the Official Gazette, define the local limits of the area in relation to which each Tribunal appointed by it shall exercise jurisdiction under this Act.

(2) Any mutawalli of a wakf, person interested in a wakf or any other person aggrieved by any order made under this Act or any rule or order made thereunder, may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute, question or other matter relating to the wakf.

(3) Where any application made under sub-section (1) relates to any wakf property which falls within the territorial limits of the jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the mutawalli or any one of the mutawallis of the wakf actually and voluntarily resides, carries on business or personally works for gain, and, where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute, question or other matter :

Provided that the State Government may, if it is of opinion that it is expedient in the interests of the wakf or any other person interested in the wakf or the wakf property, to transfer such application to any other Tribunal having jurisdiction for the determination of the dispute, question or other matter relating to such wakf or wakf property, transfer such application to any other Tribunal having jurisdiction, and, on such transfer, the Tribunal to which the application is so transferred shall deal with the application from the stage which was reached before the Tribunal from which the application has been so transferred, except where the Tribunal is of opinion that it is necessary in the interests of justice to deal with the application afresh.

(4) Every Tribunal shall consist of one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District and Sessions Judge or of a Civil Judge, Class I, and the appointment of every such person may be made either by name or by designation.

(5) The Tribunal shall be deemed to be a civil court and shall have the same powers as may be exercised by a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, or executing a decree or order.

(6) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), the Tribunal shall follow such procedure as may be prescribed :

Provided that where any procedure, different from the prescribed procedure, is specified by this Act, the Tribunal shall follow the procedure specified by this Act.

(7) This decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.

(8) Execution of any decision of the Tribunal shall be made by the civil court to which such decision is sent for execution in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal :

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit."

52. *Insertion of new sections 55A to 55F.*—After section 55 of the principal Act, the following sections shall be inserted, namely :—

"55A. *Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision.*—Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to wakf or wakf property it shall hold its proceedings as expeditiously as possible and shall, as soon as practicable, on the conclusion of the hearing of such matter, give its decision in writing under its signature and furnish a copy of such decision to each of the parties who were present before it at the time of the decision and, where any party was not present at the time aforesaid, send a copy of such decision to such party by registered post.

55B. *Amendment of decisions.*—Clerical or arithmetical mistakes in any decision or order of a Tribunal or any error arising therein from any accidental slip or omission may at any time be corrected by the Tribunal, by which such decision was given or order was made, either on its own motion or on the application of any of the parties to the proceeding, and, whenever any such correction is made, a copy of the decision or order, as so corrected, shall be furnished to each of the parties who were present before the Tribunal at the time of making such correction and, where any party was not so present, shall be sent to such party by registered post.

55C. *Bar of jurisdiction of civil courts in respect of matters determined by Tribunal*—No suit or other legal proceeding shall lie in any civil court in respect of any dispute, question or other matter relating to any wakf, wakf property or other matter which is required by, or under, this Act to be determined by a Tribunal.

55D. *Appointment of a receiver in certain cases.*—Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law for the time being in force, where any suit or other legal proceeding is instituted or commenced—

(a) by or on behalf of a Board—

(i) to set aside the sale of any immovable property, which is wakf property, in execution of a decree or order of a civil court ;

(ii) to set aside the transfer of any immovable property, which is wakf property, made by the mutawalli thereof, whether for valuable consideration or not, without, or otherwise than in accordance with, the sanction of the Board ;

(iii) to recover possession of the property referred to in clause (a) or clause (b) or to restore possession of such property to the mutawalli of the concerned wakf ; or

(b) by a mutawalli to recover possession of immovable property, which is wakf property which has been transferred by a previous mutawalli, whether for valuable consideration or not, without or otherwise than in accordance with, the sanction of the Board, and which is in the possession of the defendant,

the court may, on the application of the plaintiff, appoint a receiver of such property and direct such receiver to pay from time to time to the plaintiff, out of the income of the property such amount as the court may consider to be necessary for further prosecution of the suit.

55E. Bar to the enforcement of right on behalf of unregistered wakfs.—

(1) Notwithstanding anything contained in any other law for the time being in force, no suit, appeal or other legal proceeding for the enforcement of any right on behalf of any wakf which has not been registered in accordance with the provisions of this Act, shall be instituted or commenced or heard, tried or decided by any court after the commencement of the Wakf (Amendment) Act, 1984, or where any such suit, appeal or other legal proceeding had been instituted or commenced before such commencement, on such suit, appeal or other legal proceeding shall be continued, heard, tried or decided by any court after such commencement unless such wakf has been registered, after such commencement, in accordance with the provisions of this Act.

(2) The provisions of sub-section (1) shall apply, as far as may be, to the claim for set-off or any other claim made on behalf of any wakf which has not been registered in accordance with the provision of this Act.

55F. Bar to the challenge of the validity of any notification, etc.—Save as otherwise expressly provided in this Act, no notification or order or decision made, proceeding or action taken, by the Central Government or the State Government under this Act or any rule made thereunder shall be questioned in any civil court.”

53. Amendment of section 57.—In sub-section (1) of section 57 of the principal Act,—

(a) for the words “title to wakf property”, the words “title to, or possession of, wakf property” shall be substituted ;

(b) for the words “or the right of a mutawalli, the court” the word “or the right of a mutawalli or beneficiary, the court or Tribunal” shall be substituted.

54. Amendment of section 58.—In section 58 of the principal Act,—

(a) in sub-section (1),—

(i) after the words and figures “Land Acquisition Act, 1894 (1 of

1894)", the words "or under any other law for the time being in force relating to the acquisition of land or other property" shall be inserted ;

(ii) the following Explanation shall be inserted at the end, namely :—

"Explanation.—The reference to Collector in the foregoing provisions of this sub-section shall in relation to any other law referred to therein, be construed, if the Collector is not the competent authority under such other law to make as award of the compensation or other amount payable for acquisition of land or other property thereunder, as a reference to the authority under such other law competent to make such award ;

(b) in sub-section (3), after the words and figures "Land Acquisition Act, 1894 (1 of 1894)", the words, brackets and figure "or under the corresponding provisions of the other law referred to in sub-section (1), shall be inserted ;

(c) in sub-section (4), after the words and figures "Land Acquisition Act, 1894 (1 of 1894)", the words, brackets and figure "or under the corresponding provisions of the other law referred to in sub-section (1)" shall be inserted.

55. *Amendment of section 59.*—In section 59 of the principal Act, for the word "Board", the words "Wakf Commissioner" shall be substituted.

56. *Amendment of section 61.*—In section 61 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "the Board may apply", the words "the Wakf Commissioner may apply" shall be substituted ;

(ii) for the words "to pay to the Board or to any person authorised by the Board", the words "to pay to the Wakf Commissioner or to any person authorised by the Wakf Commissioner" shall be substituted ;

(b) in sub-section (2), for the word "Board", the words "Wakf Commissioner" shall be substituted.

57. *Insertion of new section 61A.*—In Chapter VII of the principal Act, after section 61, the following section shall be inserted, namely :—

61A. *Power of appellate authority to entertain appeal after the expiry of the specified period.*—Where, under this Act, any period has been specified for the filing of any appeal, the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period so specified, entertain the appeal after the expiry of the said period."

58. *Substitution of section 62.*—For section 62 of the principal Act, the following section shall be substituted, namely :—

"62. *Powers of Central Government to regulate the secular activities of wakfs.*—(1) For the purpose of regulating the secular activities of wakfs, the Central Government shall have the following powers and functions, namely :—

(a) to lay down general principles and policies of wakf administration in so far as they relate to the secular activities of the wakfs ;

(b) to co-ordinate the functions of the Central Wakf Council, the Wakf Commissioners and the Board, in so far as they relate to their secular functions ;

(c) to review administration of the secular activities of wakfs generally and to suggest improvements, if any.

(2) In exercising its powers and functions under sub-section (1), the Central Government may call for any periodic or other reports from any Board or Wakf Commissioner and may issue to the Board or Wakf Commissioner such directions as it may think fit and in the performance of their functions, the Board and the Wakf Commissioners shall comply with such directions".

59. *Insertion of new sections 63A and 63B.*—After section 63 of the principal Act, the following sections shall be inserted, namely :—

"63A. *Annual report by the State Government.*—As soon as may be after the close of a financial year, the State Government shall cause a general annual report on the working and administration of the State Wakf Board and the administration of wakfs in the State during that year to be prepared and laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House, and every such report shall be in such form and shall contain such matters as may be prescribed

63B. *Powers of revision of the State Government.*—(1) Save as otherwise provided in this Act, the State Government may either on its own motion or on an application made to it by a mutawalli or any other person interested in the wakf, call for and examine the record of the Board or Wakf Commissioner, as the case may be, in respect of any proceeding (not being a proceeding relating to a matter in respect of which a suit has been instituted, appeal has been filed or application has been made to a court or any proceeding arising out of an application made to the Tribunal or an appeal to the State Government as provided by this Act), to satisfy itself as to the regularity of such proceedings or the correctness, legality or propriety of any decision or order passed in such proceedings, and, if in any case, it appears to the State Government that any such decision or order should be modified, annulled, reversed or remitted to the Board for reconsideration, the State Government may pass orders accordingly :

Provided that no such order shall be made except after giving to the person who is likely to be prejudicially affected thereby a reasonable opportunity of making his representations against the proposed action.

(2) No application shall be entertained under sub-section (1) in respect of any matter unless an application in relation to the said matter had already been made to the Board and had been disposed of by the Board or, where the application relates to any matter in respect of which the Wakf Commissioner is empowered by or under this Act to exercise any power unless an application had been made to the Wakf Commissioner and has been disposed of by him.

¶ (3) Every application referred to in sub-section (1) shall be made within a period of three months from the date on which the order made in the proceeding to which the application relates, was communicated to the applicant."

60. *Amendment of section 64.*—In sub-section (1) of section 64 of the principal Act, after the words "or has exceeded or abused its power", the words and figures "or has wilfully and without sufficient cause failed to comply with any direction issued by the Central Government under section

62 or the State Government under section 63, or if the state Government is satisfied on a consideration of any report submitted after annual inspection, that the Board's continuance is likely to be injurious to the interests of the wakfs in the State" shall be inserted.

61. *Amendment of section 65.*—In section 65 of the principal Act, for the words 'the Commissioner', the words "the Wakf Commissioner or the Survey Commissioner" shall be substituted.

62. *Substitution of section 66.*—For section 66 of the principal Act, the following section shall be substituted, namely :—

"66. *Wakf Commissioner, members of Board, etc., to be deemed to be public servants.*—(1) The Wakf Commissioner, Survey Commissioner, members of the Board, and every auditor, every officer and servant of the Board and every other person duly appointed to discharge any duties imposed on him by this Act or any rule or order made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(2) Every mutawalli of a wakf, every member of managing committee, whether constituted by the Board or under any deed of wakf, every Executive Officer and every person holding any office in a wakf shall also be deemed to be public servants within the meaning of section 21 of the Indian Penal Code."

63. *Amendment of section 66A.*—In section 66A of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures "under the States Reorganisation Act, 1956 (37 of 1957)", the words "under any law providing for reorganisation of States" shall be substituted ;

(ii) for the figures, letters and words "1st day of November, 1956", the words "the date of such reorganisation" shall be substituted ;

(iii) for the words "it should be reconstituted or reorganised as an intra-State Board", the word "it should be reconstituted as an intra-State Board" shall be substituted ;

(b) in sub-section (3),—

(i) in clause (b), for the words "reconstitution and reorganisation", the words "reconstitution" shall be substituted ;

(ii) in clause (f) for the words and figures "subject to the provisions of section 111 of the States Reorganisation Act, 1956 (37 of 1956)", the words "subject to the provisions of law providing for the reorganisation of the concerned State" shall be substituted.

64. *Amendment of section 66B.*—In sub-section (1) of section 66B of the principal Act, for the words and figures "the States Reorganisation Act, is, as from the 1st day of November, 1956 (37 of 1956) applicable". the words "any law providing for the reorganisation of any State, this Act is, as from the date on which that law comes into force, applicable" shall be substituted.

65. *Insertion of new sections 66D to 66F.*—After section 66C of the principal Act, the following sections shall be inserted, namely :—

"66D. *Powers of Board and Wakf Commissioners to require copies of documents, etc., to be furnished.*—Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Board, or the Wakf Commissioner to require any person having the custody of any re-

cord, register, report or other document relating to a wakf or any immovable property which is wakf property, to furnish, subject to the payment of necessary costs, copies of or extracts from, any such record, register, report or document and every person to whom such a requisition is made shall furnish, as soon as may be practicable to the Board or Wakf commissioner copies or extracts from the required record, register, report or other document.

66E. Institution of suit or legal proceedings in certain cases.—Notwithstanding anything contained in any other law for the time being in force, no suit or other legal proceeding in respect of the administration or management of a wakf, or any other matter or dispute for the determination or decision of which provisions have been made in this Act, shall be instituted in any court or Tribunal except under, and in accordance with, the provisions of this Act.

66F. Power of Central Government to constitute common Boards.—(1) Where the Central Government is satisfied that by reason of—

- (i) the smallness of the Muslim population in two or more States,
- (ii) the slender resources of the wakf in such States, and
- (iii) the disproportion between the number and income of the wakf and the Muslim population in such States,

it is expedient in the interests of the wakfs in the States and the Muslim population of such States, to have, instead of separate Boards for each of such States, a common Board, it may, after consultation with the Government of each of the concerned States, establish, by notification in the Official Gazette, a common Board for such States as it may deem fit, and may, by the same or any subsequent notification, specify the place at which the principal office of such common Board shall be located.

(2) Every common Board established under sub-section (1) shall, as far as practicable, consist of the persons specified in sub-section (1), or, as the case may be, sub-section (2) of section 10.

(3) Whenever any common Board is established under sub-section (1),—

(a) all powers vested in the State Government under any deed of wakf or any provision of law for the time being in force relating to wakfs, shall become transferred to, and vested in, the Central Government and, thereupon, references in such deed of wakf or law to the State Government shall be construed as references to the Central Government :

Provided that while establishing a common Board for two or more States, the Central Government shall ensure that at least one representative of each of the concerned States is included as a member of the Board ;

(b) references in this Act to a State shall be construed as references to each of the States for which the common Board has been established ;

(c) the Central Government may, without prejudice to any rule applicable to a Board in a State, make, by notification in the Official Gazette, rules regulating the conduct of business by, and affairs of, the common Board.

(4) The common Board shall be a body corporate, with objects not confined to one State, having perpetual succession and a common seal with power to acquire and hold property and to transfer any such property, sub-

ject to such conditions and restrictions as may be specified by the Central Government, and shall by the said name sue or be sued.

66G. *Period of limitation for recovery of wakf properties to be thirty years.*—Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963), the period of limitation for any suit for possession of immovable property comprised in any wakf or possession of any interest in such property shall be a period of thirty years and such period shall begin to run when the possession of the defendant becomes adverse to the plaintiff.

66H. *Special provision as to evacuee wakf properties.*—The provisions of this Act shall apply, and shall be deemed always to have applied, in relation to any evacuee property within the meaning of clause (f) of section 2 of the Administration of Evacuee Property Act, 1950 (31 of 1950) which immediately before it became such evacuee property within the said meaning was property comprised in any wakf and, in particular, any entrustment (whether by transfer of any documents or in any other manner and whether generally or for specified purposes) of any such property to a Board made before the commencement of the Wakf (Amendment) Act, 1984 in pursuance of the instructions of the Custodian under the Administration of Evacuee Property Act, 1950 shall have, and shall be deemed always to have had, notwithstanding anything contained in any other provision of this Act, effect as if such entrustment had operated to—

(a) vest such property in such Board in the same manner and with the same effect as in a trustee of such property for the purposes of sub-section (1) of section 11 of the Administration of Evacuee Property Act, 1950 (31 of 1950) with effect from the date of such entrustment, and

(b) authorise such Board to assume direct management of the wakf concerned for so long as it might deem necessary.”

66. *Amendment of section 67.*—In sub-section (2) of section 67 of the principal Act,—

(i) clause (d) shall be omitted ;

(ii) for clause (n), the following clauses shall be substituted, namely :—

“(n) the manner of election of members of the Board by means of a single transferable vote to be prescribed under section 10 ;

(o) the scale of pay, allowances and other conditions of service of officers and other employees appointed by the Wakf Commissioner under section 21B ;

(p) the conditions and restrictions subject to which the Wakf Commissioner and any authorised officer of the Board may inspect any record, register other document in a public office in pursuance of the provisions of section 22B ;

(q) the conditions subject to which an Executive officer may be appointed under section 26A and salaries and allowances of such Executive Officer ;

(r) the manner in which an inquiry may be held by the Wakf Commissioner under section 26B with regard to wakfs which appear to have ceased to exist or in relation to buildings, or other places which were being used for religious purposes or instruction or for charity, which have ceased to be used for that purpose ;

(s) the manner in which the Wakf Commissioner may give notice to the mutawalli under sub-section (2) of section 31 ;

(t) the form in which, and the time within which, a separate budget for wakfs under the direct management of the Board shall be prepared as required by section 31A ;

(u) the intervals at which accounts of a wakfs may be audited in pursuance of the provisions of sub-section (1) of section 33 ;

(v) the time within which the sale of any property is to be confirmed under the first proviso to sub-section (2) of section 36A, and the manner in which the approval given under sub-section (3) of that section shall be published ;

(w) the manner of service of notice issued under sub-section (1) of section 36D and the manner in which any inquiry is to be made under sub-section (3) of that section ;

(x) the other matters which may be specified in the report submitted under sub-section (3) of section 43A ;

(y) manner of publication of order made under sub-section (2) of section 43C.

(z) the manner in which consultation may be made with a mutawalli under sub-section (1) of section 43F ;

(za) manner of publication of order made under sub-section (2) of section 43F ;

(zb) the rate at which contribution is to be made by a mutawalli under section 46 ;

(zc) time within which application is to be made to the Tribunal under sub-section (2) of section 55 for the determination of any dispute, question or other matter relating to a wakf or wakf property ;

(zd) the procedure which a Tribunal shall follow under sub-section (6) of section 55 ;

(ze) the form in which an annual report is to be submitted under section 63A and the matters which such report shall contain ;

(zf) rules regulating the conduct of business by, and affairs of, the common Board under clause (c) of sub-section (3) of section 66F ;

(zg) any other matter which is required to be, or may be prescribed."

67. *Insertion of new section 67A.*—After section 67 of the principal Act, the following section shall be inserted, namely :—

"67A. *Rules made by the Central Government to be laid before Parliament.*—Every rule made by the Central Government under section 66F shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

68. *Amendment of section 69.*—In section 69 of the principal Act, in sub-section (1), after clause (3), the following clause shall be inserted, namely :—

“(3A) On and from the commencement of the Wakf (Amendment) Act, 1984, sections 92 and 93 of the Code of Civil Procedure, 1908 (5 of 1908).”

THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

The following Act of the Parliament received the assent of the President on the 11th September, 1984 and was published in the *Gazette of India*, (Ext), Part II, Section 1, No 76, dated September 11, 1984.

INDIAN PARLIAMENT ACT NO. 62 OF 1984

[11th September, 1984.]

An Act to provide for establishment of the Industrial Reconstruction Bank of India, and for the transfer to, and vesting in, the said Reconstruction Bank, of the undertaking of the Corporation known as the Industrial Reconstruction Corporation of India, Limited, with a view to enabling the said Reconstruction Bank to function as the principal credit and reconstruction agency for Industrial revival and to coordinate similar work of the other institutions engaged therein and to assist and promote industrial development, and to rehabilitate industrial concerns, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India, as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement*—(1) This Act may be called the **Industrial Reconstruction Bank of India Act, 1984**.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. *Definitions*.—In this Act, unless the context otherwise requires,—

(a) “appointed day”, in relation to any provision of this Act, means the date on which such provision comes into force and any reference to the appointed day in any provision of this Act shall be construed as a reference to the commencement of that provision ;

(b) “assistance” means any direct or indirect financial, managerial or technical assistance granted by the Reconstruction Bank in pursuance of any business referred to in section 18 ;

(c) “assisted industrial concern” means any industrial concern to which any assistance has been given by the Reconstruction Bank ;

(d) “Board” means the Board of directors of the Reconstruction Bank ;

(e) “charge” includes a charge referred to in section 37 ;

(f) “Corporation” means the Industrial Reconstruction Corporation of India Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956), and having its registered office in the State of West Bengal ;

(g) “Development Bank” means the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964) ;

(h) “dues” means any dues payable by any person to the Reconstruction Bank in relation to any assistance given by, or any bond or debenture issued to, the Reconstruction Bank, and includes interest, rent, costs charges and commission payable in relation thereto ;

- (i) "industrial concern"—
 - (1) means any concern engaged, or to be engaged, in—
 - (i) the manufacture, preservation or processing of goods ;
 - (ii) shipping ;
 - (iii) mining ;
 - (iv) the hotel industry ;
 - (v) the transport of passengers or goods by road or by water or by air or by ropeway or by lift ;
 - (vi) the generation or distribution of electricity or any other form of power ;
 - (vii) the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motor boats or trailers or tractors ;
 - (viii) assembling, repairing or packing any article with the aid of machinery or power ;
 - (ix) the development of any contiguous area of land as an industrial estate ;
 - (2) and includes—
 - (i) an undertaking owned, controlled or managed by a company firm or other body corporate, which is, or is to be, so engaged,
 - (ii) such other concern as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—The expression "processing of goods" includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation ;

(j) "nationalised bank" means a corresponding new bank as defined in section 2 of the—

(i) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) ;

(ii) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) ;

(k) "prescribed" means prescribed by rules made under this Act ;

(l) "public financial institution" means a public financial institution specified in, or under section 4A of the Companies Act, 1956 (1 of 1956) ;

(m) "Reconstruction Bank" means the Industrial Reconstruction Bank of India, established under section 3 ;

(n) "regulation" means a regulation made under this Act ;

(o) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) ;

(p) "share" means a share in the capital of the Corporation ;

(q) "share-holder" means a person registered by the Corporation as the holder of a share ;

(r) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934) ;

(s) "State Bank" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955) ;

(t) "State co-operative bank" the principal co-operative society in a State, the primary object of which is the financing of other co-operative societies in the State ;

(u) "State Financial Cooperation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46, the State Financial Corporations Act, 1951 (43 of 1951) ;

(v) "State level agency" means such institution or agency, operating in any State or Union territory, as may be specified as its agency by the Reconstruction Bank.

CHAPTER II

Establishment of the Industrial Reconstruction Bank of India

3. *Establishment of the Reconstruction Bank.*—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established, for the purposes of this Act, a corporation, to be known as the Industrial Reconstruction Bank of India ;

(2) The Reconstruction Bank shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and to contract, and may, by that name, sue and be sued.

(3) The head office of the Reconstruction Bank shall be at Calcutta, and the Reconstruction Bank may establish offices, branches and agencies at any other place, whether in, or outside, India.

4. *Authorised capital.*—(1) The authorised capital of the Reconstruction Bank shall be rupees two hundred crores.

(2) The initial paid-up capital of the Reconstruction Bank shall be rupees fifty crores which shall be obtained,—

(a) by the appropriation, out of the assets of the Corporation which stand transferred to the Reconstruction Bank by virtue of the provisions of section 5, of a sum of rupees twenty crores, being an amount equal to the amount paid-up on the shares of the Corporation ;

(b) by the conversion, to the extent of rupees twenty crores, of the loans granted by the Central Government to the Corporation into the capital of the Reconstruction Bank ; and

(c) by the subscription, by the Central Government, to the paid-up capital of the Reconstruction Bank, of a sum of rupees ten crores.

(3) The Reconstruction Bank may increase its paid-up capital by making further issue of shares of such amount as it may think expedient, but in doing so, the Reconstruction Bank shall ensure that its total capital does not, in any case, exceed its authorised capital.

(4) The entire paid-up capital of the Reconstruction Bank shall be wholly subscribed by, and allotted to, the Central Government.

CHAPTER III

Acquisition and Transfer of the Undertaking of the Industrial Reconstruction Corporation of India Limited

5. *Undertaking of the Corporation to be transferred to the Reconstruction Bank.*—(1) On such date as the Central Government may, by notification in the Official Gazette, appoint, the undertaking of the Corporation shall stand transferred to, and shall vest in the Reconstruction Bank.

(2) For the transfer to, and vesting in, the Reconstruction Bank of

the undertaking of the Corporation, the Corporation shall be given, in cash, by the Central Government an amount equal to the amount of the total paid-up capital of the Corporation.

(3) The undertaking of the Corporation shall be deemed to include all assets, business, rights, powers, authorities and privileges and all property, moveable and immovable, cash balances, reserve funds, investments, book-debts and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the Corporation whether within or outside India, and all books of account, registers, records, and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Corporation in relation to its undertaking.

(4) Unless otherwise expressly provided by this Act, all contracts deeds, bonds, agreements, power of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the Corporation is a party or which are in favour of the Corporation, shall be of as full force and effect against or in favour of the Reconstruction Bank, and may be enforced or acted upon as fully and effectually as if, in the place of the Corporation, the Reconstruction Bank had been a party thereto or as if they had been issued in favour of the Reconstruction Bank.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the business of the undertaking which has been transferred under this section, is pending by, in any way, prejudicially affected by reason of the transfer of the undertaking of the Corporation or of anything contained in this Act, and the suit, appeal or other proceeding may be continued, prosecuted and enforced by, or against, the Reconstruction Bank.

6. *Power of Central Government to authorise a person to take over the management of the Corporation.*—(1) The Central Government may appoint, on or after the appointed day, a suitable person to take over the management of the Corporation for the purpose of winding up of the Corporation and where any person is so appointed, it shall be the duty of such person to bring the operations of the Corporation to a close, realise the amounts payable to the Corporation under sub-section (2) of section 5, and distribute the said amount to the shareholders in accordance with their rights and interests, and after such realisation and distribution to obtain the order of the Central Government for the dissolution of the Corporation.

(2) For the purposes of sub-section (1), the person appointed that under sub-section shall have such power of duties of the Official Liquidator under the Companies Act, 1956 (1 of 1956), as are necessary to give effect to the provisions of sub-section (1) as if the Corporation were being wound up by the Court, and, for this purpose the provisions of the Companies Act, 1956 shall apply, subject to the notification that for the word "Court", wherever it occurs, the words "Central Government" shall be substituted.

(3) Where any person is appointed by the Central Government under sub-section (1) to take over the management of the Corporation,—

(a) the provisions of the Companies Act, 1956 (1 of 1956), or of any other law for the time being in force, or any instrument having effect

by virtue of any Act, or other law, shall, in so far as they are inconsistent with the provisions of this Act, cease to apply to, or in relation to, or in relation to, the Corporation;

(b) all persons holding office as Chairman and Managing Director and other directors, of the Corporation, immediately before the appointment of the person under sub-section (1), shall be deemed to have vacated their offices as such

(4) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, any person holding, immediately before the appointed day, office as the Chairman or director of the Corporation, who vacates his office as such on the appointed day by reason of the provisions of sub-section (3), shall not be entitled to any compensation for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such compensation or other benefit which the Reconstruction Bank may to grant to him, having regard to what that person would have received as an officer of the Corporation if this Act had not been passed and if he had retired from his employment in the ordinary course.

7. *Transfer of the services of the officers and other employees of Corporation to the Reconstruction Bank.*—(1) Save as otherwise provided in sub-section (3) of section 6, every officer or other employee of the Corporation shall become, on and from the appointed day, an officer or other employee, as the case may be, of the Reconstruction Bank and shall hold his office or service in that bank on the same terms and conditions and with the same rights to gratuity and other matters as would have been admissible to him, if the undertaking of the Corporation had not been transferred to, and vested in, the Reconstruction Bank, and to do so unless and until his employment in the Reconstruction Bank is duly terminated or until his remuneration, terms and conditions are duly altered by the Reconstruction Bank:

Provided that an officer or other employee who does not intend to continue as an employee of the Reconstruction Bank may, within ninety days from the appointed day, serve a notice of his intention to the Reconstruction Bank, and, on expiry of the period of thirty days from the date of service of notice, he shall cease to be an employee of the Reconstruction Bank, and, on such cesser, superannuation and other benefits due to him under the terms of his employment shall be paid to him forthwith by the Reconstruction Bank as if he has retired from service.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, any superannuation or compassionate allowance or benefit from the Corporation or any provident or other fund or any authority administering such fund shall be entitled to be paid by, and to receive from, the Reconstruction Bank or any provident or other fund or any authority administering such fund, the same allowance or benefit so long as he observes the conditions on which allowance or benefit was granted, and, if any question arises whether he has so observed such conditions, the question shall be determined by the Central Government and the decision of the Central Government thereon shall be final.

(3) Where, under the terms of any contract of service or otherwise, any person whose service becomes transferred to the Reconstruction Bank by reason of the provisions of this Act is entitled to any payment by way

of gratuity or retirement benefit or compensation for any leave not availed of, or any other benefits, such person may enforce his claim against the Reconstruction Bank.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), no application made or promotion, increment in salary, allowance or any other benefit granted to any person, before the appointed day, which would not ordinarily have been admissible under the rules or authorisation of the Corporation, or of any provident or other fund in force prior to the appointed day, shall have effect or be payable or claimable from the Reconstruction Bank or from any provident or other fund or from an authority administering such fund, unless the Central Government has, by general or special order, confirmed the appointment, promotion or increment or has directed the continued grant of such allowance or other benefit, as the may be.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Corporation to the Reconstruction Bank shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

(6) Where any person, Chairman, or other director, by whatever name called, or other employee of the Corporation has, before the appointed day, been paid a sum by way of compensation or gratuity, the Reconstruction Bank shall be entitled to claim refund of any sum so paid, if the payment is not confirmed by the Central Government by general or special order.

(7) Where one or more provident funds have been established, or maintained, by the Corporation or any other authority, for the benefit of its officers and other employees, the money debitabale to the officers and other employees whose services have become transferred, by, or under this Act to the Reconstructions Bank, shall out of the monies standing on the appointed day to the credit of such provident fund, stand transferred to, and vested in, the provident fund established by the Reconstruction Bank under section 62.

(8) Where superannuation, welfare and other funds have been established by the Corporation for the benefit of its officers or other employees whose services stand transferred to the Reconstruction Bank, the amount standing to the credit of such fund shall stand transferred, on the appointed day, to the Reconstruction Bank for distribution to the concerned officers or other employees in accordance with their rights and obligations.

8. *Dissolution of the Corporation.*—(1) As soon as realisation and distribution of the amount have been made under section 6, the person appointed under sub-section (1) of that section shall submit his duly audited accounts to the Central Government and shall apply to that Government for orders as to the dissolution of the Corporation.

(2) The Central Government shall, after hearing such person as it may think fit, and upon perusing the accounts so audited, if satisfied that the amount has been realised and distributed in accordance with the provisions of this Act, make an order that the Corporation is dissolved from the date of the order and the Corporation shall stand dissolved accordingly.

(3) A copy of the order made by the Central Government for the dissolution of the Corporation shall be filed by the Reconstruction Bank with the Registrar of Companies within thirty days from the date of such order, and the Registrar of Companies shall give effect to the said order as if it were an order made by the Court for the dissolution of the Corporation.

(4) The provisions of this section shall have effect, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force.

CHAPTER IV

MANAGEMENT OF THE RECONSTRUCTION BANK

9. *Management.*—(1) The general superintendence, direction and management of the affairs and business of the Reconstruction Bank shall vest in a Board of directors which may exercise all powers and do all acts and things which may be exercised or done by the Reconstruction Bank.

(2) Save as otherwise provided in the regulation made under this Act, the Chairman shall also have powers of general superintendence, direction and management of the affairs and business of Reconstruction Bank and may also exercise all powers and do all acts and things which may be exercised or done by the Reconstruction Bank.

(3) Subject to the provisions of this Act, the Board, in discharging its functions, shall act on business principles with due regard to public interest.

(4) In the discharge of its function under this Act, the Reconstruction Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing, and if any disputes arises as to whether a question of such policy, the dispute shall be decided by the Central Government whose decision thereon shall be final.

10. *Board of directors.*—(1) The Board shall consist of the following, namely ;—

(a) Ia Chairman, to be appointed by the Central Government, who shall function both as the Chairman and as the managing director ;

(b) a Deputy Governor of the Reserve Bank, to be nominated by that Bank.

(c) a director, to be nominated by the Development Bank ;

(d) not more than fifteen directors to be nominated by the Central Government, of whom—

(i) three shall be officials of the Central Government,

(ii) not more than three shall be from the public financial institutions,

(iii) not more than five shall be from the State Bank, nationalised banks and the State financial Corporations,

(iv) not more than four shall be from among persons who have, in the opinion of the Central Government, special knowledge of, and professional experience in, science, technology, economics, industry, industrial co-operatives, law, industrial finance, investment, accountancy, marketing or any other matter the special knowledge of, or professional experience in, which would, in the opinion of the Central Government, be useful to the Reconstruction Bank.

(2) A director nominated under sub-section (1) shall hold office during the pleasure of the authority nominating him.

11. *Disqualifications of membership of the Board.*—No person shall be qualified to be a member of the Board if—

(a) he has been removed or dismissed from service of—

(i) Government, or

(ii) Reserve Bank, State Bank or any other Bank, or

(iii) any public financial institution or State financial corporation, or

(iv) any other corporation owned or controlled by Government on a charge of corruption or bribery; or

(b) he is, or at any time has been, adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or

(c) he is a lunatic and stands so declared by a competent court; or

(d) he is or has been convicted of any offence, which, in the opinion of the Central Government, involves moral turpitude.

12. *Term of office, salaries and allowances of Chairman.*—The Chairman shall hold office for such term not exceeding five years as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment for a like term.

(2) Notwithstanding anything contained in sub-section (1),—

(a) the Central Government shall have the right to terminate the term of office of the Chairman at any time before the expiry of the term specified under sub-section (1) by giving him notice of not less than three months' in writing or three months' salary and allowance in lieu of such notice; and the Chairman shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (1) by giving to the Central Government notice of not less than three months in writing;

(b) the Central Government may, at any time, remove the Chairman from office;

Provided that no person shall be removed from his office under this clause, unless he has been given a reasonable opportunity of showing cause against his removal.

(3) Where any vacancy occurs in the office of the Chairman, the Central Government shall appoint a suitable person to discharge the function of the Chairman.

(4) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Central Government may appoint a suitable person to function as the Chairman until the day on which the Chairman resumes the charge of his functions.

(5) The Chairman shall be a whole-time officer of a Reconstruction Bank and shall receive such salaries, allowance and other benefits, and shall be subject to such other terms and conditions, as may be determined by the Central Government:

Provided that the Board may, if it is of opinion, that it is necessary in the public interest so to do, permit the Chairman to undertake, at the request of the Central Government or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as Chairman.

13. *Disclosure of interest.*—No member of the Board shall have an in-

terest, direct or indirect, in any business, industry or concern to which any assistance has been given or is to be given by the Reconstruction Bank under this Act and if any such member acquires such interest at any time during the continuance of such assistance, he shall immediately disclose it to the Board and shall either resign his membership of the Board or dispose of his interest in such manner and within such time as the Board may direct.

14. *Meetings of the Board*—(1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be provided for in the regulations.

(2) If, for any reason, the Chairman is unable to attend any meeting of the Board, any other director nominated by the Chairman in this behalf, and in the absence of such nomination, any director elected by the directors present, from amongst themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or, in his absence, the person presiding, shall have a second or casting vote.

(4) Save as otherwise provided under sub-section (3), every director of the Board shall have one vote.

15. *Executive Committee and other committees*.—(1) The Board may constitute an Executive Committee consisting of such number of directors as may be provided for in the regulations.

(2) The Executive Committee shall discharge such functions as may be provided for in the regulations, or, as may be delegated to it, by the Board.

(3) The Board may constitute such other committees, whether consisting only of directors or only of other persons or partly of directors and partly of other persons, for such purpose or purposes, as it may think fit.

(4) The Executive Committee or any other committee constituted under the section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided for in the regulations.

16. *Assistance of vacancy in or defect in the constitution of the Board or defect or disqualification of a member not to invalidate the proceedings of the Board*.—(1) No act or proceeding of the Board or of any Executive or other committee constituted by it shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, such Board or committee, as the case may be.

(2) All acts done by a person acting in good faith as a member of the Board or of any committee constituted by it shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision of this Act or any other law for the time being in force :

Provided that nothing in this section shall be deemed to give validity to any act of a member of the Board or of any committee after his appointment has been shown to the Reconstruction Bank to be invalid or to have terminated,

17. *Fees and allowances of directors and members of committees.*—The directors and members of the committee shall be paid such fees and allowance as may be provided for in the regulations for attending the meetings of the Board or of any committee constituted in pursuance of this Act or for attending to any other work of the Reconstruction Bank :

Provided that no fees shall be payable to the Chairman or to any other director or member who is an official of the Government, or, to a Deputy Governor of the Reserve Bank or to any official of the Development Bank or Reconstruction Bank.

CHAPTER V

Objects of, and business to be transacted by, the Reconstruction Bank

18. *Objects and business of the Reconstruction Bank.*—(1) The Reconstruction Bank shall function as the principal credit and reconstruction agency for industrial revival by undertaking modernisation, expansion, reorganisation, diversification or rationalisation of industries, and by co-ordinating similar work of other institutions engaged therein, and shall assist and promote industrial development, reconstruction and revival, and undertake rehabilitation of industrial concerns, by providing or procuring assistance and operating schemes for the same, and may for attaining the said objects, carry on and transact all or any of the following businesses, namely :—

(a) granting loans and advances (including working capital) to any industrial concern or subscribing to or purchasing or under-writing the issue of stocks, shares, bonds, or debentures of any industrial concern or converting the dues in respect of such loans or debentures into the shares of any industrial concern ;

(b) guaranteeing, counter-guaranteeing or providing indemnity as the case may be, in respect of—

(i) loans raised by an industrial concern from any scheduled bank or State co-operative bank or any public financial institution or any other prescribed institution or agency in, or outside, India ;

(ii) deferred payments due from an industrial concern ;

(iii) the performance obligations of any contract under-taken by an industrial concern, including repayment of any advance obtained by such industrial concern in connection with such contract ;

(c) subscribing to or purchasing or underwriting the issue of stocks shares, bonds or debentures of any institution which may be notified by the Central Government in this behalf ;

(d) providing credit to any State level agency or other prescribed institution or agency for grant of loans and advances to industrial concerns ;

(e) providing or obtaining credit from other public financial institutions scheduled bank and State co-operative banks, for grant of loans and advances to or to furnish guarantees on behalf of the industrial concern ;

(f) providing infrastructural facilities and raw materials ;

(g) providing machinery and other equipment on lease or hire-purchase basis ;

(h) providing consultancy and merchant banking services in and outside of India relating to reconstruction and development of any industrial concern or industry in general ;

(i) accepting or discounting of bills of exchange and promissory notes, made, drawn, accepted, or endorsed by any industrial concern or by any person selling capital goods manufactured by one industrial concern to another industrial concern ;

(j) promoting, owning, taking over, managing industrial concerns and acting as authorised person, where so appointed by the Central Government, to manage an industrial concern, including ancillaries ;

(k) transferring or acquiring for consideration any instrument relating to loans and advances ;

(l) providing technical, legal, administrative and marketing assistance, promoting, assisting and financing mergers, amalgamation or reconstruction of an industrial or business concern ;

(m) providing managerial assistance to industrial concerns including nationalised undertakings by deputing officers from its own cadre or a separate management pool constituted for the purpose ;

(n) undertaking research and surveys for evaluating or dealing with marketing or investments, carrying on techno-economic studies in connection with reconstruction and development of industry and establishment of institutes for such purposes including training of personnel ;

(o) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder ;

(p) forming or controlling, of subsidiaries for carrying out any of his functions or to carry on such other activities conducive to its business ;

(q) acting as an agent of—

(i) Central Government or State Government ;

(ii) Reserve Bank, State Bank, scheduled bank, State co-operative bank, public financial institutions, State Financial Corporations ;

(iii) such other Government or person as the Central Government may authorise ;

and to appoint one or more of these institutions, or agencies, or any other prescribed person, as its agent ;

(r) performing functions entrusted to or required of it by Central Government under this Act or any other law ;

(s) doing any kind of business or assignment in or outside the country which the Central Government may authorise ;

(t) collecting information from all concerned agencies relating to industrial sickness and industrial development ;

(u) preparing guidelines to assist the Central Government in formulating policy framework to reconstruct, receive or rehabilitate industrial concerns or any industry ;

(v) granting loans for housing and other purposes to the officers and other employees (including persons employed or contract) of the Reconstruction Bank ;

(w) generally doing such other acts and things as may be incidental to or consequential upon the exercise of its powers or of its duties under this Act or any other law, including sale or transfer of any of its assets.

(2) The Reconstruction Bank may receive in consideration of any of the services mentioned in sub-section (1), such commission brokerage, interest, rent, remuneration or fees, as may be agreed upon.

(3) The Reconstruction Bank shall not grant any loan or advance or other assistance on the security of its own bonds or debentures.

19. Prohibited business.—(1) The Reconstruction Bank shall not enter into any kind of business with any industrial concern, of which any of the directors of the Reconstruction Bank is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more director of the Reconstruction Bank together hold substantial interest :

Provided that this sub-section shall not apply to any industrial concern if any director of the Reconstruction Bank—

(i) is nominated as a director of the Board of such concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law, or

(ii) is elected as a director on the Board of such industrial concern by virtue of shares held in that industrial concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Explanation I.—“Government company” has the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956).

Explanation II.—“Substantial interest” in relation to any industrial concern means the beneficial interest held by one or more of the directors of the Reconstruction Bank or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956 (1 of 1956)] of such director whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent of the paid-up share capital of the industrial concern, whichever is the lesser.

(2) The provisions of sub-section (1)—

(i) shall not apply to any industrial concern as specified therein if the Reconstruction Bank is satisfied that it is necessary in the public interest to enter into business with that concern, and entering into any kind of business with such industrial concern shall be in accordance with and subject to such conditions and limitations, as may be provided for in the regulations ;

(ii) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.

20. Loans by Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Reconstruction Bank interest free loans or loans with interest on such terms and conditions, as may be agreed upon.

21. Borrowing and acceptance of deposits by the Reconstruction Bank.—

(1) The Reconstruction Bank may, for the purpose of carrying out its functions under this Act—

(a) issue and sell bonds and debentures with or without guarantee of the Central Government ;

(b) borrow money from the Reserve Bank—

(i) repayable on demand or on the expiry of fixed periods, not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India ;

(ii) against bills of exchange or promissory notes arising out of *bona fide* commercial or trade transactions, bearing two or more good signatures and maturing within five years from the date of borrowing ;

(iii) for any other purpose approved by the Central Government in accordance with the provisions of the Reserve Bank of India Act, 1934 (2 of 1934) ;

(c) borrow money from such other authority, organisation, institution or trust in India as may be generally or specially approved by the Central Government ;

(d) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of making of the deposit on such terms as may be generally or specially approved by the Reserve Bank.

(2) The Central Government may, on a request being made to it by the Reconstruction Bank, guarantee the bonds and debentures issued by that Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by the Government.

(3) Notwithstanding anything contained in any other law for the time being in force, the bonds and debentures issued or sold by the Reconstruction Bank shall be approved securities for the purposes of the Indian Trusts Act, 1882 (2 of 1882), the Insurance Act, 1938 (4 of 1938) and the Banking Regulation Act, 1949 (10 of 1949).

22. *Powers to transfer rights.*—The rights and interest of the Reconstruction Bank (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Reconstruction Bank, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement, or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred and the Reconstruction Bank may, notwithstanding such transfer, act as the trustee of the transferee.

23. *Loans in foreign currency.*—(1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 (36 of 1973), or in any other enactment for the time being in force relating to foreign exchange, the Reconstruction Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in any foreign country or as otherwise prescribed.

(2) The Central Government may, where necessary, guarantee any loan taken by the Reconstruction Bank under sub-section (1) or any part thereof, as to the repayment of principal and payment of interest and other incidental charges.

(3) All loans and advances granted by the Reconstruction Bank out of foreign currency borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign

currency under sub-section (1), for the purpose of granting loans and advances under this Act, or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing.—

(a) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and advances ;

(b) after the expiry of the period specified in clause (a),—

(i) shall be borne by the Reconstruction Bank in respect of normal market fluctuations in foreign exchange ;

(ii) shall be reimbursed by, or paid to, as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Explanation.—If any question arises as to whether any fluctuation as aforesaid is a normal fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.

24. *Grants, donations, etc., to the Reconstruction Bank.*—The Reconstruction Bank may receive gifts, grants, donations or benefactions from Government or any other source.

CHAPTER VI

RECONSTRUCTION ASSISTANCE FUND

25. *Reconstruction Assistance Fund.*—With effect from the appointed day, the Reconstruction Bank shall establish a special fund to be called the Reconstruction Assistance Fund.

26. *Credits to the Reconstruction Assistance Fund.*—To the Reconstruction Fund shall be credited—

(a) all amounts received for the purposes of that Fund by way of loans, gifts, grants, donations or benefactions from Government or any other source ;

(b) repayments or recoveries in respect of loans, advances or other facilities granted from the Fund ;

(c) income or profits from investments made from the Fund ; and

(d) income accruing or arising to the Fund by way of interest or otherwise, on account of the application of the Fund in accordance with the provisions of section 27.

27. *Utilisation of Reconstruction Assistance Fund.*—(1) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (3) and (4), disburse or spend from the Reconstruction Assistance Fund any amount on account, or in consequence, of the grant of any loan or advance or on account, or in consequence, of entering into any arrangement, under section 18 :

Provided that before granting any such loan or advance to an industrial concern or entering into any such arrangement with or in relation to an industrial concern the Reconstruction Bank shall obtain the prior approval of the Central Government.

(2) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (3) and (4) disburse or spend from the Reconstructions Assistance Fund any amount for one or more of the purposes specified in section 18.

(3) Before seeking the approval of the Central Government under sub-section (1), the Reconstruction Bank shall satisfy itself that the banking or other financial institutions or other agencies are not likely to grant such loan or advance to the industrial concern or to enter into any such arrangement with or in relation to the industrial concern in the ordinary course of business.

(4) The Central Government shall, before giving its approval, satisfy itself that such loan, advance or arrangement is necessary as a matter of priority in the interests of industrial reconstruction, revival, rehabilitation or development.

(5) For the removal of doubts, it is hereby declared that nothing contained in this section shall be deemed to preclude the Reconstruction Bank from granting any loan or advance or from entering into any arrangement under clause (a) or under clause (b) of sub-section (1) of section 18, without the approval of the Central Government, if no amount in respect thereof is to be disbursed or spent from the Reconstruction Assistance Fund.

28. *Debts to Reconstruction Assistance Fund.*—(1) To the Reconstruction Assistance Fund shall be debited—

(a) such amounts as may from time to time be disbursed or spent under section 27 ;

(b) such amounts as may be required for discharging the liabilities in respect of loans received for the purposes of that Fund ;

(c) any loss arising on account of investment made out of that Fund ; and

(d) such expenditure arising out of, or in connection with, the administration and application of the Fund as may be determined by the Board.

(2) No amount shall be debited to the Reconstruction Assistance Fund except as provided for in sub-section (1).

29. *Accounts and audit of Reconstruction Assistance Fund.*—(1) The balance-sheet and accounts of the Reconstruction Assistance Fund shall be prepared in such form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Fund to be closed and balanced as on the 30th day of June each year.

(3) The Reconstruction Assistance Fund shall be audited by one or more auditors appointed by the Central Government under section 34, who shall make a separate report thereon.

(4) The provisions of sub-sections (2), (3), (4) and (6) of section 34 shall, so far as may be, apply in relation to the audit of the Reconstruction Assistance Fund, as they apply to the audit of the accounts of the Reconstruction Bank.

(5) The Reconstruction Bank shall furnish to the Central Government, within four months from the date on which the accounts of the Fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors' report and a copy of the report on the operation of the Fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

30. *Liquidation of Reconstruction Assistance Fund.*—The Reconstruction Assistance Fund shall not be closed or wound up save by the order of the Central Government and in such manner as that Government may direct.

CHAPTER VII

General Fund, accounts and audit

31. *General Fund*—All receipts of the Reconstruction Bank other than those which are to be credited to the Reconstruction Assistance Fund under this Act shall be credited to a Fund to be called the General Fund and all payments by the Reconstruction Bank, other than those which are to be debited to the Reconstruction Assistance Fund, shall be made out of the General Fund.

32. *Preparation of accounts and balance-sheet.*—(1) The balance sheet and accounts of the Reconstruction Bank shall be prepared in such form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Reconstruction Bank to be closed and balanced as on the 30th day of June each year.

33. *Disposal of profits accruing to General Fund.*—(1) Reconstruction Bank may establish a reserve fund to which may be transferred such sums as that Bank may deem fit out of the annual profits accruing to the General Fund.

(2) After making provisions for bad and doubtful debts, depreciation of assets and for all other matters for which provisions is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), the Reconstruction Bank shall transfer the balance of the net profits to the Central Government.

34. *Audit.*—(1) The accounts of the Reconstruction Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956) who shall be appointed by the Central Government for such term and on such remuneration as the Central Government may fix.

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the Reconstruction Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Reconstruction Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Reconstruction Bank.

(3) The auditors may, in relation to such accounts, examine any directors or any officer or other employee of the Reconstruction Bank and shall be entitled to require from the Board or officer or other employees of the Reconstruction Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Reconstruction Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Reconstruction Bank and in case they had called for any explanation or information from the Board or any officer or other employees of the Reconstruction Bank whether it has been given and whether it is satisfactory.

(5) The Reconstruction Bank shall furnish to the Central Government within four months from the date on which its account are closed and balanced, a copy of its balance-sheet and accounts together with a copy

of the auditors' report and a report of the working of the Reconstruction Bank during the relevant year and the Central Government shall as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

(6) Without prejudice to anything contained in the preceding sub-sections, the Central Government may at any time appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Reconstruction Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the Reconstruction Bank to the Comptroller and Auditor-General of India.

35. *Saving*.—Save as otherwise provided in sub-section (4) of section 29, nothing contained in this Chapter shall apply to the Reconstruction Assistance Fund.

CHAPTER VIII

Special Powers of the Reconstruction Bank

36. *Power to impose conditions for assistance*.—(1) In entering into any arrangement under section 18 with an industrial concern, the Reconstruction Bank may impose such conditions as it may think necessary or expedient for protecting the interests of the Reconstruction Bank, and securing that the assistance granted by it is put to the best use by the industrial concern.

(2) Where any arrangement entered into by the Reconstruction Bank with an industrial concern provides for the appointment by the Reconstruction Bank of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act 1956 (1 of 1956), or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Reconstruction Bank in pursuance of the arrangement aforesaid.

(3) Any director appointed in sub-section (2) shall—

(a) hold office during the pleasure of the Reconstruction Bank and may be removed or substituted by any person by order in writing by the Construction Bank ;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto ;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement

37. *Assistance to industrial concern when to operate as a charge on the property offered as security*.—(1) Where any person or industrial concern seeks any assistance from the Reconstruction Bank on the security of any immovable property belonging to him or to the industrial concern or on security of the property of some other person whose property is offered as a collateral security for such assistance, such person or industrial concern, as the case may be, such other person may execute a written declaration in the form specified in the First Schedule stating therein the particulars

of the immovable property which is proposed to be offered as security or, as the case may be, collateral security, for such assistance and agreeing that the dues relating to the assistance, if granted, shall be a charge on such property, and, if, on receipt of such declaration, the Reconstruction Bank grants any assistance to the person or the industrial concern aforesaid, the dues relating to such assistance shall, without prejudice to the rights of any other creditor holding any prior charge or mortgage in respect of the property so specified, be, by virtue of the provisions of this section, a charge on the property specified in the declaration aforesaid.

(2) Where any further immovable property is offered as security for the assistance referred to in sub-section (1), a fresh declaration shall be executed, as far as may be, in the form specified in the First Schedule.

(3) Every declaration referred to in sub-section (1) or sub-section (2) shall be deemed to be a document registrable as an agreement under the provisions of the Registration Act, 1908 (16 of 1908), and no such declaration shall have effect unless it is so registered.

38. Power to call for repayment before agreed period.—Notwithstanding anything contained in any agreement to the contrary, the Reconstruction Bank may, by notice in writing, require any industrial concern to which it has granted any assistance to discharge forthwith in full its entire dues and also discharge its other liabilities to the Reconstruction Bank—

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the assistance ; or

(b) if the industrial concern has failed to comply with the terms of its agreement with the Reconstruction Bank in the matter of assistance ; or

(c) if there is a reasonable apprehension that the industrial concern is unable to pay its debts or that proceedings for liquidation has been, or may be commenced in respect thereof ; or

(d) if the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as a security for assistance is not insured and kept insured by the industrial concern to the satisfaction of the Reconstruction Bank or if such property depreciates in value to such an extent that, in the opinion of the Board, further security to the satisfaction of the Board should be given and such security is not given ; or

(e) if, without the permission of the Board, any machinery, plant or other equipment, whether forming part of the security or otherwise, is removed from the premises of the undertaking or the industrial concern, as the case may be, without being replaced ; or

(f) if for any other reason, it is necessary so to do to protect the interests of the Reconstruction Bank.

39. Rights of Reconstruction Bank in case of default.—(1) Where an assisted industrial concern, which is under a liability to the Reconstruction Bank under any agreement with the Bank, makes any default in the payment of any dues, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of the agreement with that Bank, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the industrial concern, as well as the right to transfer by way of lease or sale of the property assigned, charged, hypothecated, mortgaged or pledged to the

Reconstruction Bank for the purpose of realising its dues or for the revival of the industrial concern.

(2) Any transfer of property made by the Reconstruction Bank in exercise of the powers conferred on it by sub-section (1), shall vest in the transferee the rights in, or in relation to, the property transferred as if the transfer had been made by the owner of such property.

(3) The Reconstruction Bank shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of the security held by it, as it had with respect to the original goods.

(4) Where any action has been taken against an industrial concern under the provisions of sub-section (1), all costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable from the industrial concern and the money which is received by the Reconstruction Bank shall, in the absence of any contract to the contrary, be held by it in trust, to be applied firstly in payment, of such costs, charges and expenses, and, secondly, in discharge of the dues of of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests

(5) Where the Reconstruction Bank takes over the management or possession of any industrial concern under sub-section (1), such industrial concern may sue, and be sued, in its name.

40. Enforcement of claims by the Reconstruction Bank.—(1) (a) Where an assisted industrial concern makes any default in the payment of any dues to, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of agreement with that Bank, or

(b) where the Reconstruction Bank makes an order under section 38 requiring the assisted industrial concern to make immediate repayment of any assistance granted to it and the industrial concern fails to make such repayment,

then, without prejudice to the provisions of section 39 of this Act and of section 69 of the Transfer of Property Act, 1882 (4 of 1882) any officer of the Reconstruction Bank generally or specially authority by the Board in this behalf may apply to the concerned High Court for one or more of the following reliefs, namely :—

(i) for an order for the sale or lease of the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as security for the assistance granted to it, or for the sale or lease of any other property, of the industrial concern ; or

(ii) for transferring the management of the industrial concern to the Reconstruction Bank or to its nominee ; or

(iii) for an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery, plant or equipment from the premises of the industrial concern without the previous permission of the Board, where such transfer or removal is apprehended ; or

(iv) for an order for the appointment of a receiver where there is apprehension of the machinery, equipment or any other property of substantial value which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank, being removed from the premises

of the industrial concern or of being transferred without the previous permission of the Reconstruction Bank.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the industrial concern to the Reconstruction Bank, the ground on which it is made and such other particulars as may be necessary for obtaining the relief prayed for.

(3) Where an application is for any relief mentioned in sub-clause (i) of sub-section (1), the High Court may,—

(a) by an order, authorise the Reconstruction Bank to grant lease of such property to such person and on such terms and conditions as may be specified in the said order ; or

(b) pass an order calling upon the person whose property has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank to show cause, on a date to be specified in the notice, as to why an order for the sale of such property or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section, shall not be made, or

(c) pass an *ad interim* order attaching any property of the industrial concern which has not been assigned, charged, hypothecated, mortgaged to the Reconstruction Bank, or so much of such property, as would on being sold, realise in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank together with costs of the proceedings taken under this section, and pass an order calling upon the industrial concern to show cause on a date to be specified in the notice as to why such order of *ad interim* attachment shall not be made absolute.

(4) Where an application is for the relief mentioned in sub-clause (ii) of sub-section (1), the High Court shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the management of the industrial concern shall not be transferred to the Reconstruction Bank or to its nominee.

(5) Where an application is for the relief mentioned in sub-clause (iii) of sub-section (1), the High Court shall grant an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery or other equipment and issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why such *ad interim* injunction shall not be made absolute.

(6) Where an application is for the relief mentioned in sub-clause (iv) of sub-section (1), the High Court shall pass an *ad interim* order appointing a receiver in respect of the property assigned, charged, hypothecated, mortgaged or pledged and shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the *ad interim* order appointing the receiver shall not be made absolute.

(7) If no cause is shown, on or before the date specified in the notice issued by the High Court, the Court shall forthwith—

(a) make an order for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such property, as would, on being sold, realise in

its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank together with the costs of the proceedings taken under this section ;

(b) direct the sale of the attached property or the transfer of the management of the industrial concern to the Reconstruction Bank or to its nominee ;

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto in accordance with his rights and interests ;

(c) make the *ad interim* injunction made under sub-section (5), and the *ad interim* order of appointment of the receiver made under sub-section (6), as the case may be, absolute.

(8) If cause is shown, the High Court shall proceed to investigate the claim of the Reconstruction Bank and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall, as far as practicable, apply to such proceedings

(9) On an investigation made under sub-section (8), the High Court may pass an order,—

(a) for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much or such property, as would, on being sold, realise, in its estimation, an amount of equivalent in value to the outstanding dues of the assisted industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section ; or

(b) confirming the order of attachment and directing the sale of the attached property, or the transfer of the management of the assisted industrial concern to the Reconstruction Bank or to its nominee ; or

(c) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property ,

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto, in accordance with his rights and interests ;

(d) releasing the property from attachment, if it is satisfied, that it is not necessary in the interests of the Reconstruction Bank ; or

(e) confirming or vacating the injunction or the order for the appointment of the receiver :

Provided that when making any order under clause (d), the High Court may make such further orders as it thinks necessary to protect the interest of the Reconstruction Bank, and may apportion the costs of the proceedings in such manner as it thinks fit :

Provided further that unless the Reconstruction Bank intimates to the High Court that it will not prefer an appeal against any order releasing any property from any attachment such order shall not be given effect to until the expiry of the period fixed under sub-section (12) within which an appeal may be preferred, or if an appeal is preferred, unless the court empowered to hear appeals from the decisions of the said High Court otherwise directs, until the appeal is disposed of .

(10) An order of attachment or sale of property under this section shall be carried into effect as far as practicable in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908), for the attachment or sale of property in the execution of a decree as if the Reconstruction Bank were the decree-holder.

(11) An order under this section transferring the management of any industrial concern to the Reconstruction Bank or to its nominee shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908), for the possession of immovable property or the delivery of movable property in the execution of a decree, as if the Reconstruction Bank or its nominee were the decree-holder.

(12) Any party aggrieved by an order under sub-section (3), sub-section (7) or sub-section (9) may, within thirty days from the date of the order prefer an appeal to the court empowered to hear appeals from the decisions of the High Court which passed the order and the appellate court may, after hearing the parties, pass such orders as it thinks proper.

(13) Nothing in this section shall be construed where proceedings for liquidation in respect of an industrial concern have commenced before an application is made under sub-section (1), as giving to the Reconstruction Bank any preference over the other creditors of the industrial concern not conferred on it by any other law.

41. Power of Reconstruction Bank relating to property offered as primary or collateral security.—(1) Where a person has offered any property as security, whether primary or collateral, for any assistance given by the Reconstruction Bank to any industrial concern, or to such person, and a default has been committed by the industrial concern or by such person in the payment of any dues of the Reconstruction Bank or in meeting any obligation in relation to the assistance given by the Reconstruction Bank to the industrial concern aforesaid, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the property so offered as security, and shall have the right to transfer by lease or sale the property aforesaid for the purpose of realising its dues.

(2) Any transfer of property made by the Reconstruction Bank, in exercise of the powers conferred on it by sub-section (1), shall vest in the transferee, the rights in or in relation to the property transferred as if the transfer had been made by the owner of such property.

(3) Where any action has been taken under the provisions of sub-section (1), costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable out of the money received by the Reconstruction Bank by the sale or lease of the property referred to in sub-section (1) and shall, in the absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in payment of such costs, charges and expenses and, secondly, in the discharge of the dues of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(4) The Reconstruction Bank may, instead of exercising the powers conferred on it by sub-section (1), apply for the sale or lease of the pro-

property referred to in sub-section (1) or for any other relief, to the High Court within the local limits of whose jurisdiction the property aforesaid is situated, and, thereupon, the provisions of section 40 shall, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882 (4 of 1882), apply thereto as if the property aforesaid were the property referred to in section 40, and powers shall be exercisable by the High Court accordingly.

42. Powers of Reconstruction Bank to appoint directors or administrators of an industrial concern when management thereof is taken over.—(1) When the management of an industrial concern is taken over by the Reconstruction Bank, that Bank may, by order, notified in the Official Gazette, appoint as many persons as it thinks fit.

(a) in any case in which the industrial concern is a company as defined in the Companies Act, 1956 (1 of 1956), to be the directors of that industrial concern ; or

(b) in any other case, to be the administrator of that industrial concern.

(2) The power to appoint directors or administrators under this section includes the power to appoint any individual, firm or body corporate to be the manager of the industrial concern on such terms and conditions as the Reconstruction Bank may think fit.

(3) For the removal of doubts, it is hereby declared that the power to appoint directors, administrators or managers includes the power to remove or replace the person so appointed.

(4) Nothing in the Companies Act, 1956 (1 of 1956) or in any other law for the time being in force or in any instrument relating to the industrial concern shall, in so far as it makes, in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Reconstruction Bank under this section.

43. Effect of notified order under section 42.—On the issue of a notified order under section 42—

(a) if the industrial concern is a company as defined in the Companies Act, 1956 (1 of 1956), all persons holding any office as directors of the industrial concern, and in any other case, all persons holding any office having the powers of superintendence, direction and control of the industrial concern, immediately before the issue of the notified order, shall be deemed to have vacated their office as such ;

(b) any contract of management between the industrial concern and any director or manager thereof holding office as such immediately before the issue of the notified order shall be deemed to have terminated ;

(c) the directors or administrators, appointed under section 42, shall take such steps as may be necessary to take into their custody or under their control, the property, effect and actionable claims to which the industrial concern is, or appears to be, entitled, and the property and effects of the industrial concern shall be deemed to be in the custody of the directors or administrators, as the case may be, as from the date of the notified order ;

(d) the directors appointed under section 42 shall, for all purposes, be the directors of the industrial concern, duly constituted under the

Companies Act, 1956 (1 of 1956), and such directors, or, as the case may be, the administrators, appointed under section 42, shall alone be entitled to exercise all the powers of the directors, or, as the case may be, of the persons exercising powers of superintendence, direction and control of the industrial concern, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrial concern or from any other source whatsoever.

44. Powers and duties of directors and administrators.—(1) Subject to the control of the Reconstruction Bank, the directors, or as the case may be, the administrators appointed under section 42, shall take such steps as may be necessary for the purpose of efficiently managing the business of the industrial concern and shall exercise such powers and have such duties as may be prescribed.

(2) Without prejudice to the generality of the powers vested in them under sub-section (1), the directors, or, as the case may be, the administrators appointed under section 42, may, with the previous approval of the Reconstructions Bank, make an application to a court for the purpose of cancelling or varying any contract or any agreement entered into, at any time before the issue of the notified order under section 42, between the industrial concern and any other person, and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and its detrimental to the interests of the industrial concern, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement and the contract or agreement shall have effect accordingly.

45. No right to compensation for termination of contract of managing director, etc.—(1) Notwithstanding anything to the contrary contained in any contract or in any law for the time being in force, no managing or whole-time director or any other director or a manager or any person in charge of management of an industrial concern shall be entitled to any compensation for the loss of office or for the premature termination, under this Act, of any contract of management entered into by him with such concern.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing or whole-time director or any other director or manager or any such person in charge of management to recover from the industrial concern, moneys recoverable otherwise than by way of such compensation.

46. Application of Act 1 of 1956.—(1) Where the management of an industrial concern being a company as defined in the Companies Act, 1956, is taken over by the Reconstruction Bank, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such concern,—

(a) it shall not be lawful for the shareholders of such concern or any other person to nominate or appoint any person to be a director of the concern;

(b) no resolution passed at any meeting of the shareholders of such concern shall be given effect to unless approved by the Reconstruction Bank;

(c) no proceeding for the winding up of such concern or for the appointment of a receiver in respect thereof shall lie in any court, except with the consent of the Reconstruction Bank.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act 1956 (1 of 1956), shall continue to apply to such concern in the same manner as it applied thereto before the issue of the notified order under section 42.

47. *Restriction on filing of suits for dissolution, etc., of an industrial concern not being a company when its management is taken over.*—Where the management of an industrial concern not being a company as defined in the Companies Act, 1956 (1 of 1956), is taken over by the Reconstruction Bank, no suit or proceedings for dissolution or for partition shall, in so far as it relates to that industrial concern, lie in any court or before any tribunal or other authority except with the consent of the Reconstruction Bank.

48. *Official assignee or receiver not to be appointed without the consent of the Reconstruction Bank.*—No proceeding for the appointment of any official assignee or receiver in relation to any industrial concern the management of which has been taken over by the Reconstruction Bank shall lie in any court except with the consent of the Reconstruction Bank.

49. *Power of Central Government to grant relief in the case of certain assisted industrial concerns.*—(1) The Central Government may, if it is satisfied on an application made to it by the Reconstruction Bank that it is necessary so to do for the purpose of reconstructing, reviving or rehabilitating any assisted industrial concern, declare by notification in the Official Gazette, that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such assisted industrial concern is a party, or which may be applicable to such assisted industrial concern) immediately before the issue of such notified order, shall remain suspended or any rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notified order.

(2) The notified order made under sub-section (1) shall remain in force, in the first instance, for a period of two years, but the duration of such order may be extended from time to time by a further notified order by a period not exceeding two years at a time :

Provided that no such order shall in any case remain in force for more than eight years in the aggregate from the date of issue of the first notified order.

(3) Any notified order made under sub-section (1) shall have effect, notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a court, tribunal, officer or other authority or of any submission, settlement or standing order.

(4) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in sub-section (1) and suspended or modified

by notified order made under that sub-section shall, in accordance with the terms of that notified order, remain suspended or modified, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notified order ceasing to have effect—

(a) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notified order had never been made ;

(b) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in sub-section (1) the period during which it or the remedy for the enforcement thereof, remained suspended shall be excluded.

(6) During the period of operation of the notified order made under sub-section (1), the Central Government may, if satisfied that it is necessary so to do in the public interest,—

(a) for the reconstruction, revival or rehabilitation of an assisted industrial concern ; or

(b) for the proper management of the assisted industrial concern ;

or
(c) for scaling down the liabilities of the assisted industrial concern, where the financial condition and other circumstances of the assisted industrial concern are such that such scaling down is necessary, authorise the Reconstruction Bank to prepare a scheme—

(i) for the reconstruction, revival or rehabilitation of the assisted industrial concern ; or

(ii) for scaling down the liabilities of the assisted industrial concern ;

or
(iii) for the amalgamation of the assisted industrial concern with any other industrial concern (referred to in this section as the “transferee industrial concern”).

(7) The scheme referred to in sub-section (6) may contain provisions for all or any of the following matters, namely :—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern ;

(b) in the case of amalgamation of the assisted industrial concern, the transfer to the transferee industrial concern of the business properties, assets and liabilities of the industrial concern on such terms and conditions as may be specified in the scheme ;

(c) any change in the Board of Directors, or the appointment of a new Board of Directors, of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made in the

case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made ;

(d) the alteration of the memorandum and articles of association of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation ;

(e) subject to the provisions of the scheme, the continuation by, or against, the assisted industrial concern on its reconstruction or, as the case may be, the transferee industrial concern of any actions or proceedings pending against the assisted industrial concern immediately before the date of notified order made under sub-section (1) ;

(f) the reduction of the interest or rights which the members and other creditors have, in, or against, the assisted industrial concern before its reconstruction or amalgamation to such extent as the Reconstruction Bank considers necessary in the interest of the reconstitution, revival or rehabilitation of the assisted industrial concern or for the maintenance of the business of the assisted industrial concern ;

(g) the payment in cash or otherwise to the members and other creditors in full satisfaction of their claims—

(i) in respect of their interests or rights, in, or against the assisted industrial concern before the reconstruction or amalgamation ; or

(ii) where their interests or rights aforesaid, in, or against, the assisted industrial concern has or have been reduced under clause (f), in respect of such interests or rights as so reduced ;

(h) the vesting controlling interest, in the reconstructed industrial concern, in the Central Government or its nominee either by the appointment of additional director or by the allotment of additional shares ;

(i) the allotment to the members of the assisted industrial concern, for any share or shares held by them therein before its reconstruction or amalgamation [whether their interest on such shares has been reduced under clause (f) or not], of shares in the assisted industrial concern on its reconstruction, or, as the case may be, in the transferee industrial concern and where any member claims payment in cash and not allotment of shares, or where it is not possible to allot shares to any member, the payment in cash to those members in full satisfaction of their claims,—

(i) in respect of their interest in shares in the assisted industrial concern before its reconstruction or amalgamation ; or

(ii) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced ;

(j) the continuance of the services of such of the employees of the assisted industrial concern as may be specified in the scheme, in the assisted industrial concern itself on its reconstruction, or in the transferee industrial concern on such terms and conditions as may be specified in the scheme ;

(k) notwithstanding anything contained in clause (j), where any employees of the assisted industrial concern whose services are proposed in the draft scheme referred to in sub-section (2), have, by notice in writing given to the Reconstruction Bank at any time before the expiry of one month next following the date on which the draft scheme is sent to the assisted industrial concern, intimated their intention of not be-

coming employees of the assisted industrial concern on its reconstruction or in the transferee industrial concern, the payment, to such employees, and to other employees whose services have not been continued in the assisted industrial concern on its reconstruction or in the transferee industrial concern, of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947 (14 of 1947), and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the assisted industrial concern as in force immediately before the date of its reconstruction or amalgamation ;

(l) any other terms and conditions for the reconstruction or amalgamation of the assisted industrial concern :

(m) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(8) (a) A copy of the scheme prepared by the Reconstruction Bank shall be sent, in draft to the assisted industrial concern and also to the transferee industrial concern and any other industrial concern concerned in the amalgamation for suggestions and objections, if any, within such period as the Reconstruction Bank may specify for this purpose ;

(b) The Reconstruction Bank may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the assisted industrial concern and as also from the transferee industrial concern, and any other industrial concern concerned in the amalgamation and from any members or other creditor of such industrial concerns and the transferee industrial concern :

Provided that where the transferee industrial concern is a company the scheme aforesaid shall be laid before such company in the general meeting for the approval of the scheme by its members and no such scheme shall be proceeded with unless it has been approved, with or without modification, by a special resolution passed by the members of such company.

(9) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modifications or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf :

Provided that different dates may be specified for different provisions of the scheme.

(10) For the purpose of assisting it to exercise the powers conferred on it by sub-section (9), the Central Government may constitute an advisory committee consisting of such officers of the Central Government, Reserve Bank, State Bank, public financial institutions and nationalised banks, having knowledge of, or experience in, one or more of the following matters, namely :—

- (a) industry and industrial sickness ;
- (b) finance and banking ;
- (c) industrial relations ;
- (d) law,

as it may think fit.

(11) The sanction accorded by the Central Government under sub-section (9) shall be conclusive evidence that all the requirement of this scheme relating to the reconstruction, or, as the case may be, amalgamation, have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall in all legal proceeding (whether in appeal or otherwise) be admitted as evidence to the same extent as it may think fit.

(12) On and from such date of coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the assisted industrial concern, or, as the case may be, on the transferee industrial concern, and any other industrial concern concerned in the amalgamation and also on all the members and other creditors and employees of each of those assisted industrial concerns and of the transferee industrial concern, and or any other person having any right or liability in relation to any of the assisted industrial concerns or the transferee industrial concern including the trustees or other persons managing, or connected in any other manner with, any provident fund or other fund maintained by any of those industrial concerns or the transferee industrial concern.

(13) On and from such date as may be specified by the Central Government in this behalf, the properties, and the assets of the assisted industrial concern shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the assisted industrial concern shall, by virtue of, and to the extent provided in, the scheme stand transferred to, and become the liabilities of, the transferee industrial concern.

(14) If any difficulty arises in giving effect to the provisions of the scheme the Central Government may, by order, do anything, not inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(15) Copies of the scheme or of any order made under sub-section (14) shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or as the case may be, the order has been made.

(16) Where the scheme is a scheme for amalgamation of the assisted industrial concern, any business acquired by the transferee industrial concern under the scheme or under any provisions thereof shall, after the coming into operation of the scheme or such provision, be carried on by the transferee industrial concern, in accordance with the law governing the transferee industrial concern, subject to such modifications in that law or such exemptions of the transferee industrial concern from the operation of any provisions thereof as the Central Government, on the recommendation of the Reconstruction Bank, may, by notification in the Official Gazette, make for the purposes of giving full effect to the scheme :

Provided that no such modification or exemption shall be made so as to have effect for a period of more than seven years from the date of the acquisition of such business.

(17) Nothing in this sub-section shall be deemed to prevent the amalgamation with an assisted industrial concern by a single scheme of several industrial concerns in respect of each of which an order has been made under sub-section (1) of this section.

50. *Power of High Court to authorise Reconstruction Bank to prepare*

scheme for reconstruction, etc., of industrial concern.—(1) Where any company being an industrial concern, is being wound up by the High Court and the High Court is of opinion that a scheme should be made for the reconstruction, revival or rehabilitation of such industrial concern, it may, by order, authorise the Reconstruction Bank to prepare, and submit to it, a scheme for such reconstruction, revival or rehabilitation of the industrial concern.

(2) The Reconstruction Bank may, in pursuance of the order made by the court under sub-section (1), prepare a scheme for the reconstruction, revival or rehabilitation of the industrial concern referred to in sub-section (1), and the scheme so made may contain all or any of the matters specified in sub-section (7) of section 49 ;

Provided that no such scheme shall provide for the amalgamation or merger of the company in liquidation or of any undertaking owned by it with any other company, or any other undertaking owned by such other company, except on the authority of a special resolution passed by the members of that other company.

(3) The High Court may, if it is satisfied, after considering the scheme prepared under sub-section (2), that the scheme ensures the reconstruction, revival or rehabilitation of the industrial concern which is a company being wound up by the court, and such reconstruction, revival or rehabilitation would ensure an increase in the production of goods needed by the community, approve the scheme with or without any modification and the scheme so approved shall have effect, notwithstanding anything to the contrary contained in any other provisions of this Act, or any other law, or any agreement, award or other instrument for the time being in force.

51. *Chief Metropolitan Magistrate and District Magistrate to assist Reconstruction Bank in taking charge of property.*—(1) Where any property, effects or actionable claim have been sold or leased in pursuance of any power conferred by section 39, section 40 or section 41 or where the management of an industrial concern is taken over by the Reconstruction Bank or its nominee or an undertaking or an industrial concern is amalgamated under section 49, the Reconstruction Bank or the administrator or any director, or any other person authorised by the Reconstruction Bank may, for the purpose of taking into custody or control any such property, effects or actionable claims, may, request in writing the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any property or books of accounts or other documents relating to such property or effects or actionable claim may be situated, or found, to take possession thereof, and the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall, on such request being made to him.—

(a) take possession of such property, effects or actionable claims and books of account and other documents relating thereto, and

(b) forward them to the Reconstruction Bank, administrator, director or other person, as the case may be ;

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

CHAPTER IX

Miscellaneous

52. *Effect of the Act on other laws*—The provisions of this Act and any rule or scheme made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the memorandum or articles of association of an industrial concern or in any other instrument having effect by virtue of any law other than this Act.

53. *Act 43 of 1961, Act 7 of 1964 and Act 45 of 1974 not to apply Reconstruction Bank.*—Notwithstanding anything contained in the Income-tax Act, 1961, or the Companies (Profits) Surtax Act, 1964 or the Interest-tax Act, 1974, or any other enactment for the time being in force relating to tax on income, profits or gains, the Reconstruction Bank shall not be liable to pay income tax, surtax, interest-tax or any other tax in respect of—

(a) any income, profits or gains accruing to the Reconstruction Assistance Fund or any amount received to the credit of that Fund ;

(b) any income, profits or gains derived, or any amount received, by the Reconstruction Bank ; and

(c) any interest collected by, or payable to, the Reconstruction Bank in accordance with the provisions of the Interest-tax Act, 1974.

54. *Law relating to winding up not to apply to the Reconstruction Bank.*—No provision of law relating to winding up of corporations shall apply to the Reconstruction Bank and the Reconstruction Bank shall not be placed in liquidation, save by order of the Central Government and in such manner as it may direct.

55. *Act 18 of 1891 to apply to the books of the Reconstruction Bank.*—The Reconstruction Bank shall be deemed to be a bank for the purposes of the Banker's Books Evidence Act, 1891.

56. *Certain provisions of Act 10 of 1949 not to apply to Reconstruction Bank*—Nothing contained in the Banking Regulation Act, 1949, except the provisions of section 34A and section 35AD, shall apply to the Reconstruction Bank.

57. *Act 54 of 1969 not to apply to the expansion or amalgamation of certain undertaking.*—No provision of the Monopolies and Restrictive Trade Practices Act, 1969, in relation to the amalgamation, merger, modernisation or expansion of any undertaking to which Part III of that Act, applies, shall apply when such amalgamation, merger, modernisation or expansion of such undertaking, takes place as a result of any sale, lease, purchase, amalgamation or merger in accordance with the provision of this Act.

58. *Returns.*—The Reconstruction Bank shall furnish, from time to time, to the Central Government and the Reserve Bank such returns as the Central Government, or, as the case may be, Reserve Bank, may require.

59. *Delegation of powers.*—The Board may, by general or special order, delegate, subject to conditions and limitations, if any, as may be specified in the said order, to the Executive Committee or any other committee constituted under this Act or to any director, officer or other employee of the Reconstruction Bank to manage any assisted industrial concern or any undertaking owned by such assisted industrial concern, such of its

powers and duties under this Act as it may deem necessary.

60. Staff of the Reconstruction Bank.—(1) Without prejudice to the provisions of section 7, the Reconstruction Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine their terms and conditions of appointment and service.

(2) The Reconstruction Bank may, notwithstanding anything contained in any other law for the time being in force or in any contract, depute any of its officers or other members of its staff to, or receive on deputation from, prescribed institutions on such terms and conditions as may be prescribed, and may also depute any of its officers or other members of its staff to any assisted industrial concern :

Provided that nothing contained in this section shall be construed as empowering the Reconstruction Bank to depute to any prescribed institution or assisted industrial concern any officer or other member of its staff on any salary, emoluments or other terms and conditions of service which are less favourable to him than those to which he was entitled immediately before such deputation.

61. Obligations as to fidelity and secrecy.—(1) The Reconstruction Bank shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, it shall not, except as otherwise provided in sub-section (3), divulge any information relating to, or to the affairs of, the assisted industrial concern, except in circumstances in which it is, in accordance with law or practices and usages, customary among bankers, necessary or appropriate for the Reconstruction Bank to divulge such information.

(2) Every director, auditor, adviser, officer or any other employee of the Reconstruction Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Second Schedule.

(3) The Reconstruction Bank may, for the purpose of efficient discharge of its functions under this Act, collect from, or furnish to,—

(a) the Central Government,

(b) the Reserve Bank,

(c) the State Bank, or any subsidiary bank within the meaning of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or any nationalised bank, or any other scheduled bank, or any State co-operative bank or the Development Bank or other public financial institutions, or State level agencies or prescribed institutions or State Financial Corporations,

such credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

Explanation.—For the purposes of this sub-section, the expression “credit information”, shall have the same meaning as in clause (c) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934), subject to the modification that the banking company referred to therein shall mean an assisted industrial concern.

62. Provident Fund.—(1) The Reconstruction Bank shall constitute, for the benefit of the officers and other employees appointed under section 60 (as also for the officers and other employees whose services have been transferred to it under section 7) in such manner and subject to such condi-

tions as may be prescribed, such insurance and provident fund as it may deem fit.

(2) Where any such insurance or provident fund has been constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 (19 of 1925), shall apply to such fund as if it were a Government Provident Fund.

63. *Indemnity of directors.*—(1) Every director shall be indemnified by the Reconstruction Bank against all losses and expenses incurred by him in or in relation to the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for any other director or for any officer or other employee of the Reconstruction Bank or for any loss or expenses resulting to the Reconstruction Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Reconstruction Bank or the insolvency or wrongful act of any debtor or any person under obligation to the Reconstruction Bank or any thing done in good faith in execution of the duties of his office or in relation thereto.

64. *Protection of action taken in good faith.*—No suit or other legal proceeding shall lie against the Reconstruction Bank, or any director, or officer, or other employee of the Reconstruction Bank, or any other person authorised by the Reconstruction Bank to discharge any functions under this Act, for any loss or damage caused or is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of this Act or any other law or provision having the force of law.

65. *Chairman, director, etc., to be public servants.*—Chairman, director, adviser and auditor and every other employee of the Reconstruction Bank shall be deemed to be public servants for the purposes of Chapter IX of the Indian Penal Code (45 of 1860).

66. *Penalty for making false statement in applications for loans and advances.*—If in any application, return or statement or other document made, submitted, furnished or produced for the purpose of obtaining any loan or advance or any other assistance from the Reconstruction Bank any person makes a statement—

(a) which is false in any material particular, knowing it to be false; or

(b) which omits to state any material fact, knowing it to be material;

he shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

67. *Offences by companies.*—(1) Where any offence, punishable under section 66, has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), when any offence punishable under section 66 has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individual; and

(b) “director”, in relation to a firm, means a partner in the firm.

68. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) institutions and agencies in and outside India, payment of whose loans may be guaranteed, counter-guaranteed or indemnified by the Reconstruction Bank, as may be specified under sub-section (1) of section 18;

(b) institutions and agencies which may be provided with the line of credit by the Reconstruction Bank for grant of loans and advances by them to industrial concerns as may be specified under clause (d) of sub-section (1) of section 18;

(c) persons who may be appointed to act as the agents of the Reconstruction Bank as required by clause (q) of sub-section (1) of section 18;

(d) borrowing of foreign currency from any source, other than the source specified in sub-section (1) of section 23;

(e) the power which may be exercised and duties which may be performed by any director or administrator appointed under sub-section (1) of section 44;

(f) the manner in which and the conditions subject to which an insurance or provident fund may be constituted by the Reconstruction Bank as required by sub-section (1) of section 62;

(g) any other matter which is required to be, or may be, prescribed,

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the rule both House agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

69. *Power of Reconstruction Bank to make regulations*—(1) The Board may, with the previous sanction of the Central Government, make regu-

lations, not inconsistent with the provisions of this Act and the rules made thereunder to provide for all matters for which regulations are necessary or expedient for the purpose of giving effect to the provisions of this Act and of the rules made thereunder.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matter, namely :—

(a) restrictions relating to the powers which may be exercised by the Chairman, in pursuance of the provisions of sub-section (2) of section 9 :

(b) the time and place at which the Board shall meet and the rules of procedure (including quorum) which shall be observed by the Board in regard to the transaction of business at its meetings, as required by sub-section (1) of section 14 ;

(c) (i) the constitution of the Executive Committee or other committees and the functions thereof ;

(ii) the time and place at which such committees shall meet ; and

(iii) the rules of procedure (including quorum) which shall be observed by each Committee in relation to the transaction of business at its meeting, as required by section 15 ;

(d) fees and allowances which may be paid to the directors and members of the committee, as required by section 17 ;

(e) conditions and limitations, subject to which an industrial concern may enter into any kind of business, as required by clause (i) of sub-section (2) of section 19 ;

(f) the form and manner in which the balance sheet and accounts of the Reconstruction Assistance Fund shall be prepared, as required by sub-section (1) of section 29.

(g) the form and the manner in which the balance sheet and accounts of the Reconstruction Bank shall be prepared, as required by sub-section (1) of section 32 ;

(h) the duties, conduct, salaries, allowances and conditions of service of officers and other employees (whether employed on regular basis or on contract) of the Reconstruction Bank and all those who are appointed for the management of any undertaking, the management of which has been taken over ; and

(i) any other matter which is required to be, or may be, provided for by regulations,

(3) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the sessions immediately followings the session or the successive session aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously under that regulation.

70. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, remove the difficulty :

Provided that no such notification shall be made after the expiry of a period of two years from the appointed day.

71. Amendment of certain enactments.—The enactments specified in Parts I to III of the Third Schedule to this Act shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column of that Schedule.

72. Substitution in Acts, rules or regulations of the Reconstruction Bank in place of the Corporation.—In every Act, rule or regulation in force on the appointed day, for the words "Industrial Reconstruction Corporation of India Limited", wherever they occur, the words "Industrial Reconstruction Bank of India" shall be substituted.

THE FIRST SCHEDULE

(See section 37)

Declaration referred to in section 37 of the Industrial Reconstruction Bank of India Act, 1984.

I/We hereby declare that in consideration of the assistance given to me/us or at my/our request, by the Industrial Reconstruction Bank of India, as specified in the Annexure hereto, I/we agree that the immovable properties specified in the said Annexure shall form a security for the said assistance and I/We agree that the dues arising out of such assistance shall, on and from the date of execution of these presents be a charge on the said properties for the recovery of the dues of the said Reconstruction Bank.

Execution by the parties.

1. Signed and delivered by
(party receiving the assistance)
2. Signed and delivered by
(the concerned person furnishing guarantee/collateral security)
3. Signed by the duly authorised official of Reconstruction Bank.

(Note :—Strike out whichever is not applicable.)

THE SECOND SCHEDULE

(See section 61)

Declaration of fidelity and secrecy

I, ..., do hereby declare that I will faithfully, truly and to the best of my skill and ability, execute and perform the duties required of me as the Chairman, Director, member of committee, auditor, adviser, officer or other employee of the Reconstruction Bank of India and which properly relate to the office or position held by me in or in relation to the said Reconstruction Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Industrial Reconstruction Bank of India or to the affairs of any person having any dealing with the said Reconstruction Bank, nor will I allow any such person to inspect or have access to any books or documents belonging to or in possession of the said Reconstruction Bank and

relating to the business of the said Reconstruction bank or the business of any person having any dealing with the said Reconstruction Bank.

(Signature)

Signed before me.

THE THIRD SCHEDULE

(See section 71)

Amendments of certain enactments

PART I

Amendment to the Reserve Bank of India Act, 1934

(2 of 1934)

Amendments	Date on which amendment shall take effect
(1)	(2)
1. In section 2, after clause (clv), insert the following clause, namely :— “(cv) “Reconstruction Bank” means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984.”	The date of establishment of the Reconstruction Bank.
2. In section 17,— (a) in clause (4G), after the words “the Exim Bank”, insert the words “or the Reconstruction Bank”;	Ditto
(b) in clause (4-I), after the words “Exim Bank insert” the words “or Reconstruction Bank”;	Ditto
(c) after clause (4J), insert the following clause, namely :— “(4K) the making to the Reconstruction Bank of loans and advances— (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India ; or (b) against the security of bills of exchange or promissory notes, arising out of <i>bona fide</i> commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance” ;	Ditto
(d) in clause (12B), after the words “the Exim Bank”, insert the words “or the Reconstruction Bank”.	The date of establishment of the Reconstruction Bank.

Amendments (1)	Date on which amendment shall take effect. (2)
3. In section 42, in sub-clause (ii) of clause (c) of the Ex-planation below the proviso to sub-section (1), after the words "or from the Exim Bank", insert the words "or from the Reconstruction Bank as the case may be".	The date of establishment of the Reconstruction Bank
4. In section 46C, and in clauses (c) and (d) of sub-section (2), after the words "Exim Bank" wherever they occur, insert the words "or the Reconstruction Bank, as the case may be".	Ditto

PART II
Amendment to the Industrial Disputes Act, 1947
(14 of 1947)

Amendment (1)	Date on which amendment shall take effect (2)
In section 2, in clause (bb), after the words "Export-Import Bank of India", insert the words "the Industrial Reconstruction Bank of India".	The date of establishment of the Industrial Re-construction Bank of India

PART III
Amendments to the Banking Regulation Act, 1949
(10 of 1949)

Amendment (1)	Date on which amendments shall take effect (2)
1. In section 5, after clause (ffb), insert the following clause, namely :— “(ffc) “Reconstruction Bank” means the Industrial Reconstruction Bank of India establishment under section 3 of the Industrial Reconstruction Bank of India Act, Act 1984;”	The date of establishment of the Reconstruction Bank.
2. In section 18, in the Explanation, in sub-clause (ii) of clause (a), after the words "or from the Exim Bank" insert the words "or from the Reconstruction Bank."	Ditto
3. In section 34A, in sub-section (3), after the words "the Exim Bank", insert the words "the Reconstruction Bank."	Ditto

(1)	(2) The date of establishment of the Reconstruction Bank
4. In section 36AD, in sub-section (3), after the words "the Exim Bank", insert the words "the Reconstruction Bank".	Do.
5. In section 56, in sub-clause (ii), of clause (a) of the Explanation under clause (j), after the words "the Exim Bank", insert the words "the Reconstruction Bank."	Do.

THE INDIAN VETERINARY COUNCIL ACT, 1984

The following Act of Parliament received the assent of the President on the 18th August, 1984, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 66, dated August 21, 1984.

INDIAN PARLIAMENT ACT NO. 52 OF 1984

[18th August, 1984.]

An Act to regulate veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers of the veterinary practitioners and for matters connected therewith.

Whereas it is expedient to make provision for the regulation and veterinary practice and to provide, for that purposes, for the establishment of a Veterinary Council of India and State Veterinary Council and the maintenance of registers of persons qualified to engage in veterinary practice for the whole of India and for matters connected therewith or ancillary thereto :

And Whereas Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution ;

And Whereas in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the State of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan to the effect that the matters aforesaid should be regulated in those States by Parliament by law.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

CHAPTER I Preliminary

1. *Short title, extent and commencement*—(1) This Act may be called the *Indian Veterinary Council Act, 1984*.

(2) It extends, in the first instance, to the whole of the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan and to all Union territories ; and it shall also extend to such other States as may adopt this Act by resolution passed in that behalf in pursuance of clause (1) of article 252 of the Constitution.

(3) It shall come into force in a State or Union territory to which it extends, or may become extended in future, on such date as the Central

Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act or for different States or Union territories

(Text of the Act omitted)

THE FINANCE ACT, 1984

The following Act of Parliament received the assent of the President on the 11th May 1985 and was published in the *Gazette of India* (Ext.), Part II, Section 1, No 29, dated May 11th 1984

INDIAN PARLIAMENT ACT NO 21 of 1984

An Act to give effect to the financial proposals of the Central Government for the financial year 1984-85.

Be it enacted by Parliament in the Thirty-fifth Year of Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the Finance Act, 1984

(2) Save as otherwise provided in this Act, section 2 to 34 and section 54 shall be deemed to have come into force on the 1st day of April, 1984

CHAPTER II

Rates of income-tax

2. *Income tax*—(1) Subject to the provisions of sub-section (2) and (3) for the assessment year commencing on the 1st day of April 1984 income tax shall be charged at the rates specified in part I of the First Schedule and shall be increased,—

(a) in the cases to which Paragraphs A, B, C, and D of that Part apply, by a surcharge for purposes of the Union ; and

(b) in the cases to which paragraph E of that Part applies, by a surcharge, calculated in each case in the manner provided therein :

Provided that where an assessee, being a company has made during the financial year commencing on the 1st day of April, 1983, any deposit with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) under the Companies Deposits (Surcharge on income-tax) Scheme, 1983, then, the surcharge on income-tax payable by the company,—

(a) in a case where the amount of the deposit so made is equal to or exceeds, one-half of the amount of surcharge on income-tax payable by it shall be reduced by one-half of the amount of surcharge payable by it and

(b) in a case where the amount of the deposit so made falls short of one-half of the amount of surcharge on income-tax payable by it shall be reduced by the amount of the deposit.

(2) In the case to which Sub-paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies were the assessee has in the previous year, any net agricultural income exceeding six hundred rupees in addition to total income and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, fifteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II, applies, twelve thousand rupees,
then,—

(a) the net agricultural income shall be taken into account in the manner Provided in clause (b) that is to say, as if the net agricultural income were comprised in the total income after,—

(i) in a case to which the said Sub-Paragraph I applies, the first fifteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first eight thousand rupees,
of the total income but without being liable to tax], only for the purposes of the charging income-tax, in respect of the total income ; and

(b) the income-tax chargeable shall be calculated as follows :—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rate specified in Sub-Paragraph I or as the case may be Sub-Paragraph II, of the said paragraph A, as if such aggregate income were the total income :

Provided that in a case referred to in the said Sub-Paragraph II, for the purpose of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (ii) of the proviso below Sub-Paragraph and the provisions relating to surcharge or income tax in the said Sub-Paragraph II shall not apply ;

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-paragraph I applies, by a sum of fifteen thousand rupees ; and

(B) in a case to which the said Sub-paragraph II, applies to a sum of eight thousand rupees,
and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income :

Provided that in a case referred to in the said Sub-Paragraph II, for the purposes of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (ii) of the proviso below the said Sub-Paragraph II and the provisions relating to surcharge on income-tax in the said Sub-Paragraph II and shall not apply ;

(Text of the Act omitted)

THE END

PART II- A

INDIAN PARLIAMENT ACTS, 1985

1985

THE APPROPRIATION (NO. 2) ACT, 1985

The following Act of the Parliament received the assent of the President on the 9th February, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 5, dated February 11, 1985

INDIAN PARLIAMENT ACT NO. 5 OF 1985

[9th February, 1985.]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1983, in excess of the amounts granted for those services and for that year.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (No. 2) Act, 1985

(Text omitted)

THE APPROPRIATION ACT, 1985

The following Act of Parliament received the assent of the President on the 9th February 1985, and was published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 4 dated February 11, 1985

INDIAN PARLIAMENT ACT NO. 4 OF 1985

[9th February, 1985.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1984-85.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation Act, 1985.

(Text of the Act omitted.)

THE NATIONAL CAPITAL REGION PLANNING BOARD ACT, 1985

The following Act of the Parliament received the assent of the President on the 9th February, 1985, and was published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 2, dated February 11, 1985

INDIAN PARLIAMENT ACT NO. 2 OF 1985

[9th February, 1985]

An Act to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for co-ordinating and monitoring the implementation of such plan and for evolving harmonized policies for the control of land uses and development

of infrastructure in the National Capital Region so as to avoid any haphazard development of that region and for matters connected therewith or incidental thereto.

Whereas it is expedient in the public interest to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for co-ordinating and monitoring the implementation of such plan and for evolving harmonized policies for the control of land-uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development thereof ;

And Whereas Parliament has no power to make laws for the States with respect to any of the matters aforesaid, except as provided in articles 249 and 250 of the Constitution ;

And Whereas in pursuance of the provisions of clause (1) of article 252 of the Constitution, resolution have been passed by all the Houses of the Legislatures of the State of Haryana, Rajasthan and Uttar Pradesh to the effect that the matters aforesaid should be regulated in those States by Parliament by law ;

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the **National Capital Region Planning Board Act, 1985**.

(2) It shall be deemed to have come into force on the 19th day of October, 1984.

2. In this Act, unless the context otherwise requires,—

(a) “Board” means the National Capital Region Planning Board constituted under sub-section (1) of section 3 ;

(b) “Committee” means the Planning Committee constituted under sub-section (1) of section 4 ;

(c) “counter-magnet area” means an urban area selected by the Board under clause (f) of section 8 ;

(d) “Functional Plan” means a plan prepared to elaborate one or more elements of the Regional Plan ;

(e) “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth ;

(f) “National Capital Region” means the areas specified in the Schedule :

Provided that the Central Government with the consent of the Government of the concerned participating State and in consultation with the Board, may, by notification in the Official Gazette, add any area to the Schedule or exclude any area therefrom ;

(g) “participating States” means the State of Haryana, Rajasthan and Uttar Pradesh ;

(h) “prescribed” means prescribed by rules made under this Act ;

(i) “Project Plan” means a detailed plan prepared to implement one or more elements of the Regional Plan, Sub-Regional Plan or Functional Plan ;

(j) “Regional Plan” means the plan prepared under this Act for the development of the National Capital Region and for the control of

land-uses and the development of infrastructure in the National Capital Region ;

(k) "regulations" means regulation made by the Board under this Act ;

(l) "sub-region," means such part of the National Capital Region as falls entirely within the limits of a participating State or the Union territory ;

(m) "Sub-Regional Plan" means a plan prepared for a sub-region ; and

(n) "Union territory" means the Union territory of Delhi.

CHAPTER II

The National Capital Region Planning Board

3. *Constitution and incorporation of the Board*—(1) The Central Government shall, by notification in the Official Gazette, constitute for the purposes of this Act, a Board, to be called the National Capital Region Planning Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sue and be sued.

(3) The Board shall consist of such number of members, not exceeding twenty-one, as may be prescribed, and unless the rules made in this behalf otherwise provide, the Board shall consist of the following members, namely :—

(a) the Union Minister for Works and Housing, who shall be the Chairman of the Board ;

(b) the Chief Minister of the State of Haryana ;

(c) the Chief Minister of the State of Rajasthan ;

(d) the Chief Minister of the State of Uttar Pradesh ;

(e) the Administrator of Union territory ;

(f) eight members, to be nominated by the Central Government, on the recommendation of the participating State and the Administrator of the Union territory ;

Provided that not more than two members shall be nominated on the recommendation of a participating State, or, as the case may be, the Administrator of the Union territory ;

(g) three other members, of whom one shall be a person having knowledge and experience in town Planning, to be nominated by the Central Government ;

(h) a full-time Member-Secretary of the Board, to be nominated by the Central Government from amongst officer of, or above, the rank of a Joint Secretary to, the Government of India ;

Provided that no change shall be made in the composition of the Board by rules except with the consent of the Government of each of the participating States and of the Administrator of the Union territory.

(4) The terms and conditions of office of the members nominated under clause (f), clause (g) or clause (h) of sub-section (3) shall be such as may be prescribed.

4. *Composition of the Planning Committee*.—(1) The Board shall, as soon as may be, after the commencement of this Act, constitute a Committee,

to be called the Planning Committee, for assisting the Board in the discharge of its functions.

(2) The Committee shall consist of such members as may be prescribed and unless the rules made in this behalf otherwise provide, the committee shall consist of the following members, namely :—

(a) the Member-Secretary to the Board, who shall be the *ex-officio* Chairman of the Committee ;

(b) the Joint Secretary to the Government of India in the Ministry of Works and Housing, in-charge of Housing and Urban Development *ex officio* ;

(c) Secretary-in-charge of Urban Development in each participating State and the Union territory, *ex officio* ;

(d) the Vice-Chairman, Delhi Development Authority, *ex officio* ;

(e) the Chief Planner, Town and Country Planning Organisation, New Delhi, *ex officio* ; and

(f) the Chief Town Planner of each participating, State, *ex officio*.

5. *Power to co opt. etc.*—(1) The Board or the Committee may, at any time and for such period as it thinks fit, co-opt any person or person as a member or members of the Board or of the Committee.

(2) A person co-opted under sub-section (1) shall exercise and discharge all the powers and functions of a member of the Board or of the Committee, as the case may be, but shall not be entitled to vote.

6. *Vacancies, etc., not to invalidate proceedings of the Board or the committee.*—No act or proceeding of the Board or of the Committee shall be invalid merely by the reason of—

(a) the existence of any vacancy in, or any defect in the constitution of, the Board or the Committee ; or

(b) any irregularity in the procedure of the Board or of the Committee not affecting the merits of the case.

CHAPTER III

Functions and powers of the Board and of the Committee

7. *Functions of the Board.*—The functions of the Board shall be—

(a) to prepare the Regional Plan and the Functional Plans ;

(b) to arrange for the preparation of Sub-Regional Plans and project Plans by each of the participating States and the Union territory ;

(c) to co-ordinate the enforcement and implementation of the Regional Plan, Functional Plans, Sub-Regional Plans and Project Plans through the participating States and the Union territory ;

(d) to ensure proper and systematic programming by the participating States and the Union territory in regard to project formulation, determination of priorities in the National Capital Region or sub-regions and phasing of development of the National Capital Region in accordance with stages indicated in the Regional Plan ;

(e) to arrange for, and oversee, the financing of selected development projects in the National Capital Region through Central and State Plan funds and other sources of revenue.

8. *Powers of the Board*—The powers of the Board shall include the powers to—

(a) call for reports and information from the participating States and the Union territory with regard to preparation, enforcement and implementation of Functional Plans and Sub-Regional Plans ;

(b) ensure that the preparation, enforcement and implementation of Functional Plan or Sub-Regional Plan, as the case may be, is in conformity with the Regional Plan ;

(c) indicate the stages for the implementation of the Regional Plan ;

(d) review the implementation of the Regional Plan, Functional Plan, Sub-Regional Plan and Project Plan ;

(e) select and approve comprehensive project, call for priority development and provide such assistance for the implementation of those projects as the Board may deem fit ;

(f) select, in consultation with the State Government concerned any urban area, outside the National Capital Region having regard to its location, population and potential for growth, which may be developed in order to achieve the objectives of the Region Plan ; and

(g) entrust to the Committee such other functions as it may consider necessary to carry out the provisions of this Act.

9. *Functions of the Committee.*—(1) The Functions of the Committee shall be to assist the Board in—

(a) the preparation and co-ordinated implementation of the Regional Plan and the Functional Plans ; and

(b) scrutinising the Sub-Regional Plans and all Project Plans to ensure that the same are in conformity with the Regional Plan.

(2) The Committee may also make such recommendation to the Board as it may think necessary to amend or modify any Sub-Regional Plan or any Project Plan.

(3) The Committee shall perform such other functions as may be entrusted to it by the Board.

CHAPTER IV The Regional Plan

10. *Content of the Regional Plan.*—(1) The Regional Plan shall be a written statement and shall be accompanied by such maps, diagrams, illustrations and descriptive matters, as the Board may deem appropriate for the purpose of explaining or illustrating the proposals contained in the Regional Plan and every such map, diagram, illustration and descriptive matter shall be deemed to be a part of the Regional Plan.

(2) the Regional Plan shall indicate the manner in which the land in the National Capital Region shall be used, whether by carrying out development thereon by conservation or otherwise, and such other matters as are likely to have any important influence on the development of the National Capital Region and every such Plan shall include the following elements needed to promote growth and balanced development of the National Capital Region, namely :—

(a) the policy in relation to land-use and the allocation of land for different uses ,

(b) proposals for major urban settlement pattern ;

(c) the proposals for providing suitable economic base for future growth ;

(d) the proposals regarding transport and communications including railway and arterial roads serving the National Capital Region ;

(e) the proposal for the supply of drinking water and for drainage ;

(f) indication of the areas which required immediate development as "priority areas"; and

(g) such other matters as may be included by the Board with the concurrence of the participating States and the Union territory for the proper planning of the growth and balanced development of the National Capital Region.

11. *Serveys and studies.*—For the preparation of the Regional Plan, the Board may cause such serveys and studies, as it may consider necessary, to be made by such person or group of persons as it may appoint in this behalf and may also associate such experts or consultants for carrring out studies in relation to such specific matters as may be determined by the Board.

12. *Procedure to be followed for the preparation of Regional Plan.*—(1) Before preparing any Regional Plan finally, the Board shall prepare, with the assistance of the Committee, a Regional Plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and in such manner as may be prescribed, inviting objections and suggestions from any person with respect to the draft Regional Plan before such date as may be specified in the notice.

(2) The Board shall also give reasonable opportunities to every local authority, within whose local limits any land touched by the Regional Plan is situate, to make any representation with respect to the draft Regional Plan.

(3) After considering all objections, suggestions and representations that may have been received by the Board, the Board shall finally prepare the Regional Plan.

13. *Date of coming into operation of the Regional Plan.*—(1) Immediately after the Regional Plan has been finally prepared, the Board shall publish, in such manner as may be prescribed a notice stating that the Regional Plan has been finally prepared by it and naming the places where a copy of the Regional Plan may be inspected at all reasonable hours and upon the date of first publication of the aforesaid notice, the Regional Plan shall come into operation.

(2) The publication of the Regional Plan, after previous publication, as required by section 12, shall be conclusive proof that the Regional Plan has been duly prepared.

14. *Modification of the Regional Plan.*—(1) The Board may, subject to the provisions of sub-section (2), make such modifications in the Regional Plan as finally prepared by it, as it may think fit, being modifications which, in its opinion, do not effect important alterations in the character of the Regional Plan and which do not relate to the extent of land-uses or the standards of population density.

(2) Before making any modifications in the finally prepared Regional Plan, the Board shall publish a notice, in such form and in such manner as may be prescribed, indicating therein the modifications which are proposed to be made in the finally prepared Regional Plan, and inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall

consider all objections and suggestions that may be received by it on or before the date so specified.

(3) Every modification made under this section shall be published in such manner as the Board may specify and the modifications shall come into operation either on the date of such publication or on such later date the Board may fix.

(4) If any question arises whether the modification proposed to be made or modifications which effect important alterations in the character of the Regional Plan or whether they relate to the extent of land-uses or the standards of population density, it shall be decided by the Board whose decision thereon shall be final.

15. Review and revision of the Regional Plan.—(1) After every five years from the date of coming into operation of the finally prepared Regional Plan, the Board shall review such Regional Plan in its entirety and may, after such review, substitute it by a fresh Regional Plan or may make such modifications or alterations therein as may be found by it to be necessary.

(2) Where it is proposed to substitute a fresh Regional Plan in place of the Regional Plan which was previously finally prepared or where it is proposed to make any modifications or alterations in the finally prepared Regional Plan, such fresh Plan or, as the case may be, modifications or alterations, shall be published and dealt with in the same manner as if it were the Regional Plan referred to in sections 12 and 13 or as if they were the modifications or alterations in the Regional Plan made under section 14.

CHAPTER V

Functional Plans, Sub-Regional Plans and Project Plans

16. Preparation of Functional Plans.—After the Regional Plan has come into operation, the Board may prepare with the assistance of the Committee as many Functional Plans as may be necessary for the proper guidance of the participating States and of the Union territory.

17. Preparation of Sub-Regional Plans.—(1) Each participating State shall prepare a Sub-Regional Plan for the sub-region within that State and the Union territory shall prepare a Sub-Regional Plan for the sub-region within the Union territory.

(2) Each Sub-Regional Plan shall be a written statement and shall be accompanied by such maps, diagrams, illustration and descriptive matter as the participating State or the Union territory may deem appropriate for the purpose of explaining or illustrating the proposals contained in such Sub-Regional Plan and every such maps, documents, illustration and descriptive matters shall be deemed to be a part of the Sub-Regional Plan.

(3) A Sub-Regional Plan may indicate the following elements to elaborate the Regional Plan at the sub-regional level, namely :—

(a) reservation of areas for specific land-uses which are of the regional or sub-regional importance ;

(b) future urban and major rural settlements indicating their area, projected population, predominant economic functions, approximate site and location ;

(c) road net-work up to the district roads connecting major rural settlements ;

(d) proposals for the co-ordination of traffic and transportation including terminal facilities ;

(e) priority areas at sub-regional level for which immediate plans are necessary ;

(f) proposals for the supply of drinking water and for drainage ; and

(g) any other matter which is necessary for the proper development of the sub-region.

18. *Preparation of Project Plans.*—A participating State, or the Union territory, may, by itself or in collaboration within one or more of the participating States or the Union territory, as the case may be, prepare Project Plans for one or more elements of the Regional Plan, Functional Plan or Sub-Regional Plan.

19. *Submission of Sub-Regional Plans to the Board.*—(1) Before publishing any Sub-Regional Plan, each participating State or as the case may be, the Union territory, shall, refer such Plan to the Board to enable the Board to ensure that such Plan is in conformity with the Regional Plan.

(2) The Board shall after examining a Sub-Regional Plan, communicate, within sixty days from the date of receipt of such Plan, its observations with regard to the Sub-Regional Plan to the participating State or the Union territory by which such Plan was referred to it.

(3) The participating State, or as the case may be, the Union territory shall, after due consideration of the observations made by the Board, finalise the Sub-Regional Plan after ensuring that it is in conformity with the Regional Plan.

20. *Implementation of Sub-Regional Plans, etc.*—Each participating State, or, as the case may be, the Union territory shall be responsible for the implementation of the Sub-Regional Plan, as finalised by it under subsection (3) of section 19, and Project Plans prepared by it.

CHAPTER VI

Finance, Accounts and Audit

21. *Grants and loans by the Central Government.*—(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants and loans of such sums of money as that Government may consider necessary to enable the Board to carry out its functions under this Act.

(2) The Central Government shall also, after due appropriation made by Parliament by law in this behalf, pay to the Board such other sums as may be necessary for meeting the salaries allowances and other remuneration of the Member-Secretary, officers and other employees of the Board and such amounts as may be necessary to meet the other administrative expenses of the Board.

22. *Constitution of the Fund*—(1) There shall be constituted a Fund to be called the National Capital Regional Planning Board Fund and there shall be credited thereto—

(a) any grants and loans made to the Board by the Central Government under section 21 ;

(b) all sums paid to the Board by the participating States and the Union territory ; and

(c) all sums received by the Board from such other sources as may be decided upon by the Central Government in consultation with the participating States and the Union territory;

(2) The sums credited to the said Fund referred to in sub-section (1) shall be applied for—

(a) meeting the salaries, allowances and other remuneration of the Member-Secretary, officers and other employees of the Board and for meeting other administrative expenses of the Board, so, however, that the total expenses shall not exceed the amount appropriated for this purpose under sub-section (2) of section 21;

(b) conducting surveys, preliminary studies and drawing up of plans for the National Capital Region; or

(c) providing financial assistance to the participating States and the Union territory for the implementation of Sub-Regional Plans and Project Plans; and

(d) providing financial assistance to the State concerned for the development of the counter-magnet area subject to such terms and conditions as may be agreed upon between such State and the Board.

23. *Budget.*—The Board shall, in each financial year, prepare in such form and at such time as may be prescribed its budget for the next financial year and forward the same to the Central Government at least three months prior to the commencement of the next financial year.

24. *Annual report.*—The Board shall prepare in each financial year its annual report in such form and at such time as may be prescribed, giving a full accounts of its activities during the financial year immediately preceding the financial year in which such report is prepared and forward, before such date as may be prescribed, copies thereof to the Central Government, the participating States and Union territory.

25. *Accounts and audit.*—The accounts of the Board shall be maintained and audited in such manner as may be, prescribed in consultation with the Comptroller and Auditor-General of India and the Board shall furnish, to the Central Government, before such date as may be prescribed, a copy of its audited accounts together with the auditors' report thereon.

26. *Annual auditors' report and report to be laid before Parliament.*—The Central Government shall cause the annual report and the auditors' report to be laid as soon as may be after their receipt, on the Table of each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session, or in two or more successive sessions.

CHAPTER VII Miscellaneous

27. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act; or in any decree or order of any court, tribunal or other authority.

28. *Power of the Central Government to give directions.*—The Central Government may, from time to time, give such directions to the Board as it may think fit for the efficient administration of this Act and when any such direction is given, the Board shall carry out such directions.

29. *Violation of Regional Plan.*—(1) On and from the coming into operation of the finally published Regional Plan, no development shall be

made in the region which is inconsistent with the Regional Plan as finally published.

(2) Where the Board is satisfied that any participating State or the Union territory has carried out, or is carrying out, any activity which amounts to a violation of the Regional Plan, it may, by a notice in writing direct the concerned participating State or the Union territory, as the case may be, to stop such violation of the Regional Plan within such time as may be specified in the said notice and in case of any omission or refusal on the part of the concerned participating State or the Union territory to stop such activity, withhold such financial assistance to the concerned participating State or the Union territory, as the Board may consider necessary.

30. *Technical assistance to the Board.*—(1) The Central Government may direct its Town and Country Planning Organisation to provide, on such terms and conditions as may be mutually agreed upon, such technical assistance to the Board as that Government may consider necessary and the Government of a participating State may direct the Town Planning Department of that Government to make such technical assistance to the Board as that Government may consider necessary.

(2) With a view to enabling the Committee to discharge its function the Board shall, out of the technical assistance received by it under subsection (1) make available to the Committee such technical assistance as the Committee may require.

31. *Officers and employees of the Board.*—(1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of the officers and employee of the Board shall be such as may be determined by regulations.

32. *Power to delegate.*—The Board may, by notification in the Official Gazette, direct that any function or power (other than the power to approve the Regional Plan and to make regulations), or duty which the Board may perform, exercise or discharge under this Act shall subject to such conditions, if any, as may be specified in the notification, be performed, exercised or discharged also by such person or persons as may be specified in the notification and where any such delegation of power is made the person or persons to whom such power is delegated shall perform, exercise or discharge those powers in the same manner and to the same extent as if they were conferred on him or them directly by this Act and not by way of delegation.

33. *Power of entry.*—Subject to any rules made in this behalf, any person generally or specially authorised by the Board in this behalf, may, at all reasonable times, enter upon any land or premises and do such things thereon as may be necessary for the purpose of lawfully carrying out any works or for making any survey, examination or investigation, preliminary or incidental to exercise of any power or performance of any function by the Board under this Act.

Provided that no such person shall enter any building or any enclosed courtyard or garden attached to a dwelling-house without previously giving the occupier thereof at least three days notice in writing of his intention to do so

34. *Member-Secretary, officers and other employees of the Board to be public servants.*—The Member-Secretary, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of

any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

35. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Board or any member or any officer or any other employee of the Board including any other person authorised by the Board to exercise any power or to discharge any function under this Act, or for anything which is in good faith done or intended to be done under this Act.

36. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter, namely :—

(a) the composition and number of the members of the Board and of the Committee, as required by sub-section (3) of section 3 and sub-section (2) of section 4, respectively, to be prescribed ;

(b) the terms and conditions of the office of the members as required by sub-section (4) of section 3, to be prescribed ;

(c) the form and manner in which notice under sub-section (1) of section 12 and sub-section (2) of section 14 shall be published ;

(d) the manner in which notice under sub-section (1) of section 13 shall be published ;

(e) the form in which and the time at which Board shall prepare its budget under section 23 and its annual report under section 24 and the manner in which the accounts of the Board shall be maintained and audited under section 25 ;

(f) the conditions and restrictions with respect to exercise of the powers to enter under section 33 and other matters relating thereto ; and

(g) any other matter which is to be, or may be, prescribed or in respect of which provision to be, or may be, made by rules.

37. *Power to make regulations.*—(1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulation may provide for all or any of the following matters, namely :—

(a) the manner in which and the purpose for which the Board may associate with itself any person under section 11 ;

(b) the terms and conditions of service of the officers and employees of the Board under sub-section (2) of section 31 ; and

(c) any other matter in respect of which provision is to be, or may be, made by regulations.

38. *Rules and regulations to be laid before Parliament.*—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or regulation, as the case

may be, or both Houses agree that the rule and regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

39. *Dissolution of the Board.*—(1) Where the Central Government is satisfied that the purposes for which the Board was established under this Act have been substantially achieved or the Board has failed in its objectives so as to render the continued existence of the Board in the opinion of the Central Government unnecessary, that Government may, by notification in the Official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the notification; and the Board shall be deemed to be dissolved accordingly.

(2) From the said date—

(a) all properties, funds and dues which are vested in or realisable by the Board shall vest in, or be realisable by, the Central Government;

(b) all liabilities which are enforceable against the Board shall be enforceable against the Central Government;

(c) for the purpose of carrying out any development which has not been fully carried out by the Board and for the purpose of realising properties, funds and dues referred to in clause (a) the functions of the Board shall be discharged by the Central Government.

(3) Nothing in this section shall be construed as preventing the Central Government from reconstituting the Board in accordance with the provisions of this Act.

40. *Acquisition of land and determination of rights in relation to land to be made by the Government of the participating State or Union territory.*—For the removal of doubts, it is hereby declared that the acquisition of land or the determination of any right or interest in, or in relation to, any land or other property, where necessary to give effect to any Regional Plan, Functional Plan, Sub-Regional Plan or Project Plan, shall be made by the Government of the concerned participating State, or, as the case may be, the Union territory, in accordance with the law for the time being in force in that State or Union territory.

41. *Repeal and saving.*—(1) The National Capital Region Planning Board Ordinance, 1984 (11 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 2(f)]

The National Capital Region shall comprise the following areas :—

1. *Delhi.*

The whole of the Union territory of Delhi.

2. *Haryana.*

(i) The whole of District of Gurgaon comprising the Tehsils of Gurgaon, Nuh and Ferozpur-Jhirka;

(ii) The whole of District of Faridabad comprising the Tehsils of Ballabgarh, Palwal and Hathin;

(iii) The whole of District of Rohtak comprising the Tehsils of Rohtak, Jhajjar, Bahadurgarh, Meham and Kosli;

(iv) The whole of District of Sonapat comprising the Tehsils of Sonapat and Gohana ; and

(v) Panipat Tehsil of District of Karnal and Rewari Tehsil of District of Mohindergarh.

3. *Utter Pradesh*

(i) The whole of District of Bulandshahr comprising the Tehsils of Anupshahr, Bulandshahr, Khurja and Sikanderabad ;

(ii) The whole of District of Meerut comprising the Tehsil of Meerut, Bagpat, Mawana and Sardhana ; and

(iii) The whole of District of Ghaziabad comprising the Tehsils of Ghaziabad and Hapur.

4. *Rajasthan*

(i) The whole of the following Tehsils of Alwar District, namely, Behror, Mandawar, Kishangarh and Tijara ; and

(ii) Part of Alwar Tehsil comprising the area bounded in the north by the Tehsil boundaries of Mandawar and Kishangarh in the east of the boundaries of Tehsil Ferozepur-Jhirka of District Gurgaon, Haryana and Alwar Tehsil in the south by the Barah river right up to Umran lake in the west and then following the southern boundaries of Umran lake up to the junction of Umran lake and State Highway from Alwar to Balrat and from then on west by north-west across the ridge up to the junction of the Tehsil boundaries of Alwar and Bansur.

Explanation.—Save as otherwise provided reference to any district or tehsil in this Schedule shall be construed as a reference to the areas comprised in that district or tehsil as the case may be, on the 27th day of August, 1984, being the date on which the National Capital Region Planning Board Act, 1984, was introduced in the House of the People.

THE FOREIGN CONTRIBUTION (REGULATION) AMENDMENT ACT, 1985

The following Act received the assent of the President and was published in the *Gazette of India (Ext.)*, Part II, Section 1, dated the 1st February, 1985.

INDIAN PARLIAMENT ACT NO. 1 OF 1985

An Act to amend the Foreign Contribution (Regulation) Act, 1976.

Be it enacted by parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Foreign Contribution (Regulation) Amendment Act, 1985.

(2) The provisions of this Act, other than sections 4 and 6, shall be deemed to have come into force on the 20th day of October, 1984, and section 4 and 6 shall be deemed to have come into force on the 1st day of January, 1985.

2. *Amendment of section 2.*—In section 2 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), (hereinafter referred to as the principal Act), in sub-section (1),—

(a) in clause (c), the following *Explanation* shall be inserted at the end, namely :—

“Explanation—A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has re-

ceived it from any foreign source, either directly or through one or more persons shall also be deemed to be foreign contribution within the meaning of this clause ;”;

(b) for clause (g), the following clause shall be substituted, namely :—

“(g) “political part” means—

(i) an association or body of individual citizens of India—

(1) which is, or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Orders 1968, as in force for the time being ; or

(2) which has set up candidates for Election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968 ;

(ii) a political party mentioned in column 1 of Table I to the notification of the Election Commission of India No: 56/J&K/84, dated the 27th September, 1984, as in force for the time being ;”;

3. *Amendment of section 4.*—In section 4 of the principal Act, in sub-section (1), in clause (c), for the words “Government servant”, the words “Judge, Government servant” shall be substituted.

4. *Amendment of section 6.*—In section 6 of the principal Act for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) No association [other than an organisation referred to in sub-section (1) of section 5] having a definite cultural, economic, educational religious or social programme shall accept foreign contribution unless such association,—

(a) register itself with the Central Government in accordance with the rules made under this Act ; and

(b) agree to receive such foreign contributions only through such one of the branches of a bank as it may specify in its application for such registration,

and every association so registered shall give within [such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by it :

Provided that where such association obtains any foreign contribution through any branch other than the branch of the bank through which it has agreed to receive foreign contribution or fails to give such intimation within the prescribed time or in the prescribed manner, or gives any intimation which is false, the Central Government may, by notification in the Official Gazette, direct that such association shall not, after the date of issue of such notification, accept any foreign contribution without the prior permission of the Central Government.

(1A) Every association referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and shall also give, within such time and in such manner as may be prescribed, an intimation to the Central Government as

to the amount of foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by it."

5. *Amendment of section 9.*—In section 9 of the principal Act, in the opening portion, for the words "Government servant", the words "Judge, Government servant" shall be substituted.

6. *Amendment of section 10.*—In section 10 of the principal Act, in clause (b), for the words and figure, "require any association, specified in section 6", the words, bracket and figures "without prejudice to the provisions of sub-section (1) of section 6, require any association specified in that sub-section" shall be substituted.

7. *Amendment of section 14.*—In section 14 of the principal Act, for the words and figure "class I post", at both the places where they occur, the words and letter "Group A post" shall be substituted.

8. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely:—

"15A. *Audit of accounts.*—Where any organisation or association fails to furnish any returns under this Act within the time specified therefor or the returns so furnished are not in accordance with law or if, after inspection of such returns, the Central Government has any reasonable cause to believe that any provisions of this Act has been, or is being, contravened, that Government may, by general or special order, authorise such gazetted officer, holding a group A post, as it may think fit, to audit any books of account kept or maintained by such organisation or association, as the case may be, and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act".

9. *Insertion of new section 25A.*—After section 25 of the principal Act, the following section shall be inserted, namely:—

"25A. *Prohibition of acceptance of foreign contribution.*—Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under sub-section (1) of section 23 or section 25, in so far as such offence relates to the acceptance or utilisation of foreign contribution is again convicted of such offence shall not accept any foreign contribution for a period of three years from the date of the subsequent conviction".

10. *Repeal and saving.*—(1) The foreign Contribution (Regulation) Amendment Ordinance, 1984 (12 of 1984), is hereby repealed

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE GENERAL INSURANCE BUSINESS (NATIONALISATION) AMENDMENT ACT, 1985

The following Act of the Parliament received the Assent of the President and was published in the *Gazette of India* (Extra.) Part II, Section 1, dated the 11th February, 1985.

INDIAN PARLIAMENT ACT NO. 3 OF 1985

An Act further to amend the General Insurance Business (Nationalisation) Act, 1972.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1 *Short title and commencement.*—(1) This Act may be called the **General Insurance Business (Nationalisation) Amendment Act, 1985**.

(2) It shall be deemed to have come into force on the 17th day of September, 1985.

2. *Amendment of clause (o) of section 3.*—In section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), (hereinafter referred to as the principal Act), in clause (o) after the words and figures “framed under section 16”, the words, figures and letter “and also includes a scheme framed under section 17A” shall be inserted.

3. *Amendment of section 16.*—In section 16 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) The power to frame a scheme under sub-section (1), and power conferred by sub-section (6) to add to, amend or vary any scheme framed under this section, shall include the power to frame such scheme with retrospective effect from a date not earlier than the appointed day”.

4. *Insertion of new Chapter VA*—In the principal Act, after Chapter V, the following Chapter shall be inserted, namely :—

“CHAPTER VA—TERMS AND CONDITIONS OF SERVICE OF OFFICERS AND OTHER EMPLOYEES

17A. *Power of Central Government to regulate the terms and conditions of service of officers and other employees.*—(1) The Central Government may, by notification in the Official Gazette, frame one or more schemes for regulating the pay scales and other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company.

(2) A scheme framed under sub-section (1) may add to, amend or vary any scheme framed under section 16 [including any addition, amendment or variation made therein by notification under sub-section (6) of section 16] with respect to rationalisation or revision of pay scales and other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company, to provide for further rationalisation or revision of such pay scales and other terms and conditions of service notwithstanding that such further rationalisation or revision is unrelated to, or unconnected with, the amalgamation of insurance companies or merger consequent on nationalisation of general insurance business.

(3) The Central Government may, by notification, add to, amend or vary any scheme framed under this section.

(4) The power to frame a scheme under sub-section (1), and the power conferred by sub-section (3) to add to, amend or vary any scheme framed under this section, shall include the power to frame such scheme or, as the case may be, to make such addition, amendment or variation in any scheme framed under this section, with retrospective effect from a date not earlier than the appointed day.

(5) A copy of every scheme, and every amendment thereto, framed under this section shall be laid, as soon as may be after it is made before each House of Parliament.

(6) The provisions of this section and of any scheme framed under

it shall have effect notwithstanding anything to the contrary contained in any other law or agreement, award or other instrument for the time being in force."

5. *Validation* —(1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or in any other law, agreement, award or other instrument for the time being in force, every scheme framed or purporting to have been framed with retrospective effect under sub-section (1) of section 16 of the principal Act and every notification made or purporting to have been made with retrospective effect under sub-section (6) of that section before the commencement of the General Insurance Business (Nationalisation) Amendment Act, 1985 shall be, and shall be deemed always to have been, for all purposes, as valid and effective as if the amendment made in the said section 16 by section 3 of this Act had been part of that section and had been in force at all material times.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or in any other law, agreement, award or other instrument for the time being in force,—

(a) every scheme framed, or purporting to have been framed, by the Central Government under sub-section (1) of section 16 of the principal Act; and

(b) every notification made, or purporting to have been made, by the Central Government under sub-section (6) of the said section 16.

before the commencement of the General Insurance Business (Nationalisation) Amendment Act, 1985, in so far as such scheme or notification provides (whether with or without retrospective effect) for any rationalisation or revision of pay scales or other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company, otherwise than in relation to, or in connection with, amalgamation of insurance companies or merger consequent on nationalisation of general insurance business shall be and shall be deemed always to have been for all purpose, as valid and effective as if section 17A, as inserted in the principal Act by section 4. of this Act had been part of the principal Act and had been in force at all material time and such schemes or notification in so far as it provides as aforesaid had been framed or made under the said section 17A :

Provided that nothing in this section shall apply to, or in relation to the notification dated the 30th day of September, 1980, framing the General Insurance (Nationalisation and Revision of pay scales and Other Conditions of Service of Supervisory Clerical and Subordinate Staff) Second Amendment Scheme, 1980.

Explanation —In this section, the expressions "acquiring company" and "Corporation" shall have the meanings respectively assigned to them in the principal Act.

6. *Repeal and saving*.—(1) The General Insurance Business (Nationalisation) Amendment Ordinance 1984 (10 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have done or taken under the principal Act, as amended by this Act.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 1985.

The following Act of the Parliament received the assent of the President and was published in *the Gazette of India (Ext.)*, Part II, Section 1, dated the 16th February, 1985.

INDIAN PARLIAMENT ACT NO. 9 OF 1985.

An Act further to amend the Representation of the People Act, 1956.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Representation of the People (Amendment) Act 1985.

(2) It shall be deemed to have come into force on the 20th day of November, 1984.

2. *Insertion of new section 73A.*—In the Representation of the People Act, 1951 (43 of 1951), (hereinafter referred to as the principal Act), after section 73, the following section shall be inserted, namely :—

“73A. *Special provision as to certain elections.*—Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon the expiry of the term of the House of the People in existence on the commencement of the Representation of the People (Amendment) Act, 1985, —

(a) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Assam and the Parliamentary constituencies in the State of Punjab; and

(b) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Assam and the Parliamentary constituencies in the State of Punjab separately and in such manner and on such dates as it may deem appropriate.”

3. *Repeal and saving.*—(1) The Representation of the People (Amendment) Ordinance, 1984 (15 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE SUGAR UNDERTAKINGS (TAKING OVER OF MANAGEMENT) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President and was published in *the Gazette of India (Ext.)*, Part II, Section 1, dated 16th February, 1985.

INDIAN PARLIAMENT ACT NO. 11 OF 1985

An Act further to amend the Sugar Undertakings (Taking over of Management) Act, 1978.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Sugar Undertakings (Taking over of Management) Amendment Act, 1985.

(2) It shall be deemed to have come into force on the 20th day of November, 1984.

2. *Amendment of section 3 of Act 49 of 1978*—In section 3 of the Sugar Undertakings (Taking over of Management) Act, 1978 (hereinafter referred to as the principal Act), in the proviso to sub-section (5), for the words "six years", the words "seven years" shall be substituted.

3. *Repeal and saving*—(1) The Sugar Undertakings (Taking Over of Management) Amendment Ordinance, 1984 (14 of 1984.), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE ADMINISTRATIVE TRIBUNALS ACT, 1985

The following Act of Parliament received the assent of the President and was published in the *Gazette of India* (Ext.), Part II, Section 1, dated the 27th February, 1985.

INDIAN PARLIAMENT ACT NO. 13 OF 1985

An Act to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

CHAPTER I—PRELIMINARY

1. *Short title, extent and commencement*—(1) This Act may be called the Administrative Tribunals Act, 1985.

(2) It extends,—

(a) in so far as it relates to the Central Administrative Tribunal, to the whole of India ;

(b) in so far as it relates to Administrative Tribunals for States, to the whole of India, except the State of Jammu and Kashmir.

(3) The provisions of this Act, in so far as they relate to the Central Administrative Tribunal, shall come into force on such date as the Central Government may, by notification, appoint.

(4) The provisions of this Act, in so far as they relate to an Administrative Tribunal for a State, shall come into force in a State on such date as the Central Government may, by notification, appoint.

STATEMENT OF OBJECTS AND REASONS

"Article 323A of the Constitution stipulates that Parliament may, by law, provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any Corporation owned or controlled by the Government.

2 The Act seeks to give effect to the aforesaid constitutional provision by providing for the establishment of an Administrative Tribunal for the Union and a separate Administrative Tribunal for a State or a Joint Admini-

strative Tribunal for two or more States. The Act also provides for—

(a) the jurisdiction powers (including the power to punish for contempt) and authority which may be exercised by each Tribunal ;

(b) the procedure (including provisions as to limitation and rules of evidence) to be followed by the Tribunals ;

(c) exclusion of the jurisdiction of all courts, except that of the Supreme Courts under article 136 of the Constitution relating to service matters ;

(d) the transfer to each Administrative Tribunal of any suit or other proceedings pending before any court or other authority immediately before the establishment of such Tribunal as would have been within the jurisdiction of such Tribunal if the causes of action on which such suit or proceedings are based has arisen after such establishment.

3. The establishment of Administrative Tribunal under the aforesaid provision of the Constitution has become necessary since a large number of cases relating to service matters are pending before the various courts. It is expected that the setting up of such Administrative Tribunals to deal exclusively with service matter would go a long way in not only reducing the burden of the various courts and thereby giving them more time to deal with other cases expeditiously but in also providing to the persons covered by the Administrative Tribunal speedy relief in respect of there grievances.

[Vide Statement of Objects and Reasons, printed in the Gazette of India, Extra., Part II, Section 2, dated August 10, 1984].

2. *Act not to apply to certain persons.*—The provisions of this Act shall not apply to—

(a) any member of the naval, military or air forces or of any other armed forces of the Union ;

(b) any person governed by the provisions of the Industrial Disputes Act, 1947 (14 of 1947), in regard to such matters in respect of which he is so governed ;

(c) any other servant of the Supreme Court or of any High Court ;

(d) any person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union territory having a Legislature, of that Legislature.

Note

This section provides for exclusion of certain categories of persons from the purview of the Act.

3. *Definitions* —In this Act, unless the context otherwise requires,—

(a) “Administrative Tribunal”, in relation to a State means the Administrative Tribunal for the State or, as the case may be, the Joint Administrative Tribunal for that State and any other State or States ;

(b) “application” means the application made under section 19 ;

(c) “appointed day”, in relation to a Tribunal, means the date with effect from which it is established, by notification, under section 4 ;

(d) “appropriate Government” means,—

(i) in relation to the Central Administrative Tribunal or a Joint Administrative Tribunal, the Central Government ;

(ii) in relation to a State Administrative Tribunal, the State Government ;

- (e) "Bench", means a Bench of a Tribunal ;
- (f) "Central Administrative Tribunal" means the Administrative Tribunal established under sub-section (1) of section 4 ;
- (g) "Chairman" means the Chairman of a Tribunal ;
- (h) "Joint Administrative Tribunal" means an Administrative Tribunal for two or more States established under sub-section (3) of section 4 ;
- (i) "Member" means a Member of a Tribunal ;
- (j) "notification" means a notification published in the Official Gazette ;
- (k) "post" means a post within or outside India ;
- (l) "prescribed" means prescribed by rules made under this Act ;
- (m) "President" means the President of India ;
- (n) "principal Bench" means the principal Bench of a Tribunal ;
- (o) "rules" means rules made under this Act ;
- (p) "service" means service within or outside India ;
- (q) "service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or, as the case may be, of any corporation owned or controlled by the Government, as respects—
 - (i) remuneration (including allowances), pension and other retirement benefits ;
 - (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation ;
 - (iii) leave of any kind ;
 - (iv) disciplinary matters ; or
 - (v) any other matter whatsoever ;
- (r) "service rules as to redressal of grievances", in relation to any matter, means the rules, regulations, orders or other instruments or arrangements as in force for the time being with respect to redressal, otherwise than under this Act, of any grievances in relation to such matter ;
- (s) "Supreme Court" means the Supreme Court of India ;
- (t) "Tribunal" means the Central Administrative Tribunal or a Joint Administrative Tribunal ;
- (b) "Vice-Chairman" means the Vice-Chairman of a Tribunal.

Explanation.—In the case of a Tribunal having two or more Vice-Chairmen, references to the Vice-Chairman in this Act shall be construed as a reference to each of those Vice-Chairman.

CHAPTER II—ESTABLISHMENT OF TRIBUNALS AND BENCHES THEREOF

4. *Establishment of Administrative Tribunals.*—(1) The Central Government shall, by notification, establish an Administrative Tribunal, to be known as the Central Administrative Tribunal, to exercise the jurisdiction, powers and authority conferred on the Central Administrative Tribunal by or under this Act.

(2) The Central Government may, on receipt of a request in this behalf from any State Government, establish, by notification, an Administrative Tribunal for the State to be known as the (name of the State) Administrative Tribunal to exercise the jurisdiction, powers and authority conferred on the Administrative Tribunal for the State by or under this Act.

(3) Two or more States may, notwithstanding anything contained in sub-section (2) and notwithstanding that any or all of those States has or have Tribunals established under that sub-section, enter into an agreement that the same Administrative Tribunal shall be the Administrative Tribunal for each of the States participating in the agreement, and if the agreement is approved by the Central Government and published in the Gazette of India and the Official Gazette of each of those States, the Central Government may, by notification, establish a Joint Administrative Tribunal to exercise the jurisdiction, powers and authority conferred on the Administrative Tribunals for those States by or under this Act.

(4) An agreement under sub-section (3) shall contain provisions as to the name of the Joint Administrative Tribunal, the manner in which the participating States may be associated in the selection of the Chairman, Vice-Chairman and other Members of the Joint Administrative Tribunal, the places at which the Bench or Benches of the Tribunal shall sit, the apportionment among the participating States of the expenditure in connection with the Joint Administrative Tribunal and may also contain such other supplemental, incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient for giving effect to the agreement.

Note

This section provides for the establishment of the Central Administrative Tribunal by the Central Government and the establishment of Administrative Tribunal for a State or two or more States by the Central Government on a request received from the State Government(s) in this behalf.

5. *Composition of Tribunals and Benches thereof.*—(1) Each Tribunal shall consist of a Chairman and such number of Vice-Chairmen and other Members as the appropriate Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

(2) Subject to the other provisions of this Act, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of at least two other Members.

(3) The Bench for which the Chairman is appointed as the Presiding Officer shall be the principal Bench and the other Benches shall be known as the additional Benches.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (3), the Chairman—

(a) may also act as the Chairman of any additional Bench ;

(b) may transfer the Vice-Chairman or other Member from one Bench to another Bench ;

(c) may authorise the Vice-Chairman or other Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, other Member of another Bench ; and

(d) may, for the purpose of securing that any case or cases which, having regard to the nature of the questions involved, requires or require, in his opinion or under the rules made by the Central Government in this behalf, to be decided by a Bench composed of more than three Members, issue such general or special orders, as he may deem fit.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (3) and subject to any rules that may be made in this behalf, when

one of the persons constituting a Bench (whether such person be the Presiding Officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the Presiding Officer or in the office of one or the other Members of the Bench, the remaining two persons may function as the Bench and if the Presiding Officer of the Bench is not one of the remaining two persons, the senior among the remaining persons shall act as the Presiding Officer of the Bench.

(6) Notwithstanding anything contained in the foregoing provisions of this section it shall be competent for the Chairman or any other Member authorised by the Chairman in this behalf to function as an additional Bench consisting of a single Member and exercise the jurisdiction, powers and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general, or special order specify :

Provided that if at any stage of the hearing of any such case or matter it appears to the Chairman or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of three Members, the case or matter may be transferred by the Chairman or as the case may be, referred to him for transfer to such Bench as the Chairman may deem fit.

(7) Subject to the other provisions of this Act, the places at which the principal Bench and other Benches shall ordinarily sit shall be such as the appropriate Government may, by notification, specify.

Note

This section provides for the establishment of the Tribunal with a principal Bench and such number of additional Benches as may be required and provides that each Bench shall consist of three members including the Presiding Officer

6. *Qualifications for appointment as Chairman, Vice-Chairman or other Member.*— (1) A person shall not be qualified for appointment as the Chairman unless he—

- (a) is, or has been, a Judge of a High Court ; or
- (b) has, for at least two years, held the office of Vice-Chairman ; or
- (c) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India.

(2) A person shall not be qualified for appointment as the Vice-Chairman unless he—

- (a) is, or has been, a Judge of a High Court ; or
- (b) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India ; or

(c) has, for a period of not less than three years, held office as a Member.

(3) A person shall not be qualified for appointment as a Member unless he—

- (a) is, or has been, or is qualified to be, a Judge of a High Court ; or

(b) has, for at least two years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India ; or

(c) has, for at least three years, held the post of a Joint Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India.

(4) The Chairman, Vice-Chairman and every other Member of the Central Administrative Tribunal shall be appointed by the President.

(5) The Chairman, Vice-Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.

(6) The Chairman, Vice-Chairman and every other Member of a Joint Administrative Tribunal shall, subject to the terms of the agreement between the participating State Governments published under sub-section (3) of section 4, be appointed by the President after consultation with the Governors of the concerned States.

Explanation.—In computing, for the purposes of this section, the period during which a person has held any post under the Central or a State Government, there shall be included the period during which he has held any other post under the Central or a State Government (including an office under this Act) carrying the same scale of pay as that of the first mentioned post or a higher scale of pay.

Note

This section makes detailed provisions regarding the qualifications to be fulfilled for appointment as Chairman, Vice-Chairman or other Members.

7. *Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances.*—(1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairman as the appropriate Government may, by notification, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairman as the appropriate Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

Note

This section indicates the circumstances under which the Vice-Chairman of the Tribunal may act as Chairman or discharge the functions of the Chairman.

8. *Terms of office.*—The Chairman, Vice-Chairman, or other Member shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,—

(a) in the case of the Chairman or Vice-Chairman, the age of sixty-five years, and

(b) in the case of any other Member, the age of sixty-two years, whichever is earlier.

Notes

This section fixes the tenure of the Chairman, Vice-Chairman or other Members of the Tribunal subject to a maximum age limit.

9. *Resignation and removal.*—(1) The Chairman, Vice-Chairman or other Member may, by notice in writing under his hand addressed to the President, resign his office :

Provided that the Chairman, Vice-Chairman or other Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairman, Vice-Chairman or any other Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairman, Vice-Chairman or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairman Vice-Chairman or other Member referred to in sub-section (2).

Notes

This section details the procedure for resignation or removal of the Chairman, Vice-Chairman or other Members of the Tribunal.

10. *Salaries and allowances and other terms and conditions of service of Chairman, Vice-Chairman and other Members*—The salaries and allowances payable to and the other terms and conditions of service (including pension, gratuity and other requirement benefits) of, the Chairman, Vice-Chairman and other Members shall be such as may be prescribed by the Central Government :

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman, Vice-Chairman or other Member shall be varied to his disadvantage after his appointment.

Notes

This section provides for the framing of rules by the Central Government to regulate the salaries and allowances and other condition of service of Chairman, Vice-Chairman and other Members.

11. *Provision as to the holding of offices by Chairman, etc., on ceasing to be such Chairman etc*—On ceasing to hold office,—

(a) the Chairman of the Central Administrative Tribunal shall be ineligible for further employment either under the Government of India or under the Government of a State ;

(b) the Chairman of a State Administrative Tribunal or a Joint Administrative Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman of any other member of the Central Administrative Tribunal or as the Chairman of any other State Administrative Tribunal or Joint Administrative Tribunal but not any other employment either under the Government of India or under the Government of a State.

(c) the Vice-Chairman of the Central Administrative Tribunal shall subject to the other provisions of this Act, be eligible for appointment as the Chairman of that Tribunal or as the Chairman or Vice-Chairman of any State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State ;

(d) the Vice-Chairman of a State Administrative Tribunal or a Joint Administrative Tribunal shall, subject to the other provisions of this Act be eligible for appointment as the Chairman of that Tribunal or as the Chairman or Vice-Chairman of the Central Administrative Tribunal or of any other State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State ;

(e) a Member (other than the Chairman or Vice-Chairman) of any Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman of such Tribunal or as the Chairman, Vice-Chairman or other Member of any other Tribunal, but not for any other employment either under the Government of India or under the Government of a State ;

(f) the Chairman, Vice-Chairman or other Member shall not appear, act or plead before any Tribunal of which he was the Chairman, Vice-Chairman or other Member.

Explanation.—For the purposes of this section, employment under the Government of India or under the Government of a State includes employment under any local or other authority within the territory of India or under the control of the Government of India or under any corporation owned or controlled by the Government.

Notes

This section provides for certain restrictions on the further employment of the Chairman, Vice-Chairman and other Members on their ceasing to hold such office with a provision for further employment of a Vice-Chairman as Chairman.

12. *Financial and administrative powers of the Chairman.*—The Chairman shall exercise such financial and Administrative power over the principal Bench and each of the additional Benches as may be vested in him under the rules made by the appropriate Government :

Provided that the Chairman shall have authority to delegate such of his financial and administrative powers as he may think fit to the Vice-Chairman subject to the condition that the Vice Chairman shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairman.

Notes

This section provides for framing of rules by the Central Government or the State Government defining financial and administrative powers of the Chairman, with provision to enable the Chairman to delegate his powers to the Vice-Chairman.

13. *Staff of the Tribunal.*—(1) The appropriate Government shall determine the nature, and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The salaries and allowances and conditions of service of the officers and other employees of a Tribunal shall be such as may be specified by rules made by the appropriate Government.

Notes

This section provides that the Central Government or a State Government as the case may be shall provide the staff for the functioning of the Tribunal.

**CHAPTER III—JURISDICTION, POWERS AND
AUTHORITY OF TRIBUNALS**

14. Jurisdiction, powers and authority of the Central Administrative Tribunal.—(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court under article 136 of the Constitution) in relation to—

(a) recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian ;

(b) all service matters concerning—

(i) a member of any All-India Service ; or

(ii) a person [not being a member of an All India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union ; or

(iii) a civilian [not being a member of an India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or other body, at the disposal of the Central Government for such appointment.

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations owned or controlled by Government, not being a local or other authority or corporation controlled or owned by a State Government :

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations.

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other

authority or corporation, all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court under article 136 of the Constitution) in relation to—

(c) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation ; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation and pertaining to the service of such person in connection with such affairs.

Notes

This section defines the jurisdiction, powers and authority of the Central Administrative Tribunal in regard to service matters of various categories of persons specified therein.

15. Jurisdiction, powers and authority of State Administrative Tribunals.—

(1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court under article 136 of the Constitution) in relation to—

(a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State ;

(b) all service matters concerning a person [not being a person referred to in clause (c) of this sub-section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation owned or controlled by the State Government ;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person whose services have been placed by any such local or other authority or corporation or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.

(2) The State Government may, by notification apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities and corporations controlled or owned by the State Government :

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different categories under any class of, local or other authorities or corporations.

(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation, all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court under article 136 of the Constitution) in relation to—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation ; and

(b) all service matters concerning a person [other than a person referred to in clause (b) of sub-section (1) of this section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any service or post in connection with the affairs of such local or other authority or corporation and pertaining to the service of such person in connection with such affairs.

(4) For the removal of doubts, it is hereby declared that the jurisdiction, powers and authority of the Administrative Tribunal for a State shall not extend to, or be exercisable in relation to, any matter in relation to which the jurisdiction powers and authority of the Central Administrative Tribunal extends or is exercisable.

Notes

This section defines the jurisdiction, powers and authority of the State Administrative Tribunal in regard to service matters of various categories of persons specified therein.

16. *Jurisdiction, powers and authority of a Joint Administrative Tribunal.*—A Joint Administrative Tribunal for two or more States shall exercise all the jurisdiction, powers and authority exercisable by the Administrative Tribunals for such States.

Notes

This section clarifies that a Joint Administrative Tribunal shall be functioning as the State Administrative Tribunal for each of the constituent States.

17. *Powers to punish for contempt.*—A Tribunal shall have, and exercise, the same jurisdiction powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971), shall have effect subject to the modifications that—

(a) the references therein to a High Court shall be construed as including a reference to such Tribunal ;

(b) the references to the Advocate-General in section 15 of the said Act shall be construed,—

(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General ; and

(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established

Notes

This section vests the Tribunal with powers to punish for contempt of itself as a High Court.

18. *Distribution of business amongst the Tribunals and its Benches.*—(1) Where any additional Bench or Benches of a Tribunal is or are constituted the appropriate Government may, from time to time, by notification, make provisions as to the distribution of the business of the Tribunal amongst the principal Bench and the additional Bench or additional Benches and specify the matters which may be dealt with by each Bench.

(2) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench of a Tribunal, the decision of the Chairman thereon shall be final.

Explanation.—For the removal of doubts, it is hereby declared that the expression “matters” includes applications under section 19.

Notes

This section provides for appropriate provisions being made by the Central Government or the State Government as the case may be, for distribution of business amongst the Tribunal and its Benches.

CHAPTER IV—PROCEDURE

19 *Application to Tribunals.*—(1) Subject to the other provision of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

Explanation.—For the purposes of this sub-section “order” means an order made—

(a) by the Government or a local or other authority within the territory of India or under the Control of the Government of India or by any corporation owned or controlled by the Government ; or

(b) by an officer, committee or other body or agency of the Government or a local or authority or corporation referred to in clause (a).

(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) as may be prescribed by the Central Government.

(3) On receipt of an application under sub-section (1), the Tribunal may, if satisfied after such inquiry as it may deem fit, that the requirement under this Act are complied with in relation to such application, admit such application ; but where the Tribunal is not so satisfied, it may reject the application summarily.

(4) Where an application has been admitted by a Tribunal under sub-section (3) every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.

Notes

This section provides for making an application to the Tribunal by an aggrieved persons covered by this Act.

20 *Applications not to be admitted unless other remedies exhausted*—(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purpose of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,—

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with grievance ; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purpose of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

Notes

This provides for admission of applications made by aggrieved persons only if other remedies available have been exhausted.

21. *Limitation.*—(1) A Tribunal shall not admit an application,—

(a) in case where final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made within one year from the date on which final order has been made ;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) section 20 has been made and a period of six months had expired thereafter without such final order having been made within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where—

(a) the grievance in respect of which application is made had been arisen by reason of any order made at any time during the period of three years immediately proceeding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates ; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or as the case may be, period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

Notes

This section provides for limitation on admission of applications from the aggrieved person by the Tribunal.

22. *Procedure and powers of Tribunal.*—(1) A Tribunal shall not be bound by the procedure, laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

(2) A Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a

perusal of documents and written representations and after hearing of oral arguments if any allowed by the Tribunal in the circumstances of the case.

(3) A Tribunal shall have, for the purposes of holding any inquiry, the same powers are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) which trying a suit, in respect of the following matters namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits ;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872) requisitioning any public record or document or copy of such record or document from any office ;
- (e) issuing commissions for the examination of witness or document ;
- (f) reviewing its decisions ;
- (g) dismissing a representation for default or deciding it *ex-parte* ;
- (h) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte* ; and
- (i) any other matter which may be prescribed by the Central Government.

Notes

This section provides that the Tribunal shall have the power to regulate its own procedure subject to the other provisions of this Act or of any rules made by the Central Government. It also invests the Tribunal with various powers necessary for holding an inquiry as are vested in a civil court.

23. *Right of applicant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers.*—(1) A person making an application to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or a State Government or a local or other authority or corporation, to which the provisions of sub-section (3) of section 14 or sub-section (3) of section 15 apply, may appoint one or more persons (whether legal practitioners or not) to act as presenting officers and a person so appointed, or any legal practitioner duly authorised in this behalf, by it may present its case with respect to any application before a Tribunal.

Notes

This section provides for the aggrieved persons taking the assistance of a legal practitioner and the Government presenting its case through one or more persons whether legal practitioners or not.

24. *Conditions as to making of Interim orders.*—Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to an application unless—

- (a) copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made ; and
- (b) opportunity is given to such party to be heard in the matter :

Provided that a Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

Note

This section empowers the Tribunal to make interim orders subject to certain conditions.

25. Power of Chairman to transfer cases from one Bench to another.—On the application of any of the parties, and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may—

(a) transfer any case pending before the principal Bench, for disposal, to any additional Bench, or

(b) transfer any case pending before an additional Bench for disposal to any other additional Bench, or

(c) withdraw to the principal Bench any case pending before any additional Bench, for disposal by the Principal Bench.

Notes

This section defines the powers of the Chairman to transfer cases between the principal Bench and the additional Benches and to withdraw a case from an additional Bench to the principal Bench.

26. Decision to be by majority.—The decision of a Bench on any point shall, where there is a majority, be according to the opinion of the majority, and where there is no majority and the members are equally divided in their opinion, they shall draw up a statement of the case setting forth the point or points on which they differ, and make a reference to the Chairman and, on receipt of such reference the Chairman may arrange for the hearing of such point or points by one or more of the other members (including, if he did not preside over such Bench, himself) and such point or points shall be decided according to the opinion of the majority of the members who have heard the case including those who had first heard it.

Notes

This section provide for decision by the majority of the Tribunal and also prescribes the procedure to be followed when there is no majority.

27. Execution of orders of a Tribunal.—Subject to the other provisions of this Act and the rules, the order of a Tribunal finally disposing of an application shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section (2) of section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.

Notes

This section indicates the manner in which orders of Tribunals may be executed,

CHAPTER V—MISCELLANEOUS

28. Exclusion of jurisdiction of courts except the Supreme Court under

article 136 of the Constitution—On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any Service or persons appointed to any Service or post, no court (except the Supreme Court under article 136 of the Constitution) shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.

Notes

This section provides for the exclusion with regard to the matters mentioned therein of jurisdiction of all courts except that of the Supreme Court under article 136 of the Constitution

29. *Transfer of pending cases.*—(1) Every suit or other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal :

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court or the Supreme Court.

(2) Every suit or other proceeding pending before a court or other authority immediately before the date with effect from which jurisdiction is conferred on a Tribunal in relation to any local or other authority or corporation, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after the said date, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal :

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court or the Supreme Court.

Explanation.—For the purposes of this sub-section “date with effect from which jurisdiction is conferred on a Tribunal”, in relation to any local or other authority or corporation, means the date with effect from which the provisions of sub-section (3) of section 14 or, as the case may be, sub-section (3) of section 15 are applied to such local or other authority or corporation.

(3) Where immediately before the date of establishment of a Joint Administrative Tribunal any one or more of the States for which it is established, has or have a State Tribunal or State Tribunal or State Tribunals, all cases pending before such State Tribunal or State Tribunals immediately before the said date together with the records thereof shall stand transferred on that date to such Joint Administrative Tribunal.

Explanation.—For the purposes of this sub-section, “State Tribunal” means a Tribunal established under sub-section (2) of section 4.

(4) Where any suit, appeal or other proceeding stands transferred from any court or other authority to a Tribunal under sub-section (1) or sub-section (2),—

(a) the court or other authority shall, as soon as may be after such transfer, forward the records of such suit, appeal or other proceeding to the Tribunal ; and

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit, appeal or other proceeding, so far as may be, in the same manner

as in the case of an application under section 19 from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit.

(5) Where any case stands transferred to a Joint Administrative Tribunal under sub-section (3), the Joint Administrative Tribunal may proceed to deal with such case from the stage which was reached before it stood so transferred.

Notes

This section provides for the transfer to the Tribunal of all cases relating to service matters pending before courts except appeal cases.

30. *Proceedings before a Tribunal to be judicial proceedings.*—All proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).

Notes

This section makes it clear that all proceedings before a Tribunal shall be deemed to be judicial proceedings.

31. *Members and staff of Tribunal to be public servants.*—The Chairman, Vice-Chairman and other Members and the officers and other employees provided under section 13 to a Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Notes

This section makes it clear that Members and staff of the Tribunal shall be deemed to be public servants.

32. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Central or State Government or against the Chairman, Vice-Chairman or other Member of any Central or Joint or State Administrative Tribunal, or any other person authorised by such Chairman, Vice-Chairman or other Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Notes

This section provides for protection of the Central or State Government or the Vice-Chairman or other members of any Central or Joint or State Administrative Tribunal in respect of anything done in good faith in pursuance of this Act.

33. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Notes

This section is for giving overriding effect of the provisions of the legislation

34. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Notes

This section empowers the Central Government to make suitable provisions for removing any difficulty in giving effect to the provisions of the legislation.

35. Power of the Central Government to make rules.—(1) The Central Government may, subject to the provisions of section 36, by notification make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the case or cases which shall be decided by a Bench composed of more than three Members under clause (d) of sub-section (4) of section 5;

(b) the procedure under sub-section (3) of section 9 for the investigation of misbehaviour or incapacity of Chairman, Vice-Chairman or other Member ;

(c) the salaries and allowances payable to, and the other terms and conditions of, the Chairman, Vice-Chairman and other Members ;

(d) the form in which an application may be made under section 19, the documents and other evidence by which such application shall be accompanied and the fees payable in respect of such application ;

(e) the rules subject to which a Tribunal shall have power to regulate its own procedure under sub-section (1) of section 22 and the additional matters in respect of which a Tribunal may exercise the powers of a civil court under clause (i) of sub-section (3) of that section ; and

(f) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

Notes

This section empowers the Central Government to make rules for various matters relating to procedures of the Tribunal, conditions of service of Chairman, Vice-Chairman and other Members and similar other matters for the proper functioning of the Tribunal.

36. Power of the appropriate Government to make rules—The appropriate Government may, by notification, make rules to provide for all or any of the following matters, namely :—

(a) the financial and administrative powers which the Chairman of a Tribunal may exercise over the principal Bench and the additional Benches of the Tribunal under section 12 ;

(b) the salaries and allowances and conditions of service of the officers and other employees of a Tribunal under sub-section (2) of section 13 ; and

(c) any other matter not being a matter specified in section 35 in respect of which rules are required to be made by the appropriate Government.

Notes

This section provides for the making of rules by the Central Government or a State Government as the case may be with regard to the various matters specified therein.

37. Laying of rules.—(1) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately follo-

wing the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both House agree that the rule should not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

THE CONSTITUTION (FIFTY SECOND AMENDMENT) ACT, 1985.

The following Act of Parliament received the assent of the President and was published in the *Gazette of India, (Ext.)*, Part II, Section I, dated the 15th February, 1985.

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Constitution (Fifty-second Amendment) Act, 1985.

(2) It shall, come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of article 101.*—In article 101 of the Constitution, in sub-clause (a) of clause (1), for the words, brackets and figures “clause (1) of article 102”, the words, brackets and figures “clause (1) or clause (2) of article 102” shall be substituted.

3. *Amendment of article 102.*—In article 102 of the Constitution,—

(a) for the brackets, figure and words “(2) For the purposes of this article”, the words “Explanation. For the purposes of this clause” shall be substituted;

(b) the following clause shall be inserted at the end, namely :—

“(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.”

4. *Amendment of article 190.*—In article 190 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures “clause (1) of article 191”, the words, brackets and figures “clause (1) or clause (2) of article 191” shall be substituted.

5. *Amendment of article 191.*—In article 191 of the Constitution —

(a) for the brackets, figure and words “(2) For the purposes of this article”, the words “Explanation.—For the purposes of this clause” shall be substituted ;

(b) the following clause shall be inserted at the end, namely :—

“(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.”

6. *Addition of Tenth Schedule.*—After the Ninth Schedule to the Constitution, the following Schedule shall be added, namely :—

TENTH SCHEDULE

[Article 102(2) and 191(2)]

Provisions as to disqualification on ground of defection

1. *Interpretation.*—In this Schedule, unless the context otherwise re-

quires,—

(a) "House" means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State ;

(b) "legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or paragraph 3 or, as the case may be, paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions ;

(c) "original political party", in relation to a member of a House, means the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2.

(d) "paragraph" means a paragraph of his Schedule.

2. *Disqualification on ground of defection.*—(1) Subject to the provisions of paragraphs 3, 4 and 5 a member of a House belonging to any political party shall be disqualified for being a member of the House—

(a) if he has voluntarily given up his membership of such political party ; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation—For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member ;

(b) a nominated member of a House shall,—

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party ;

(ii) in any other case, be deemed to belong to the political party of which he becomes or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall,—

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph, (1) of this paragraph to have been elected as a member of such House as a

candidate set up by such political party; —

(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of the paragraph or, as the case may be, deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

3 *Disqualification on ground of defection not to apply in case of split.*—Where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such legislature party,—

(a) he shall not be disqualified under sub-paragraph (1) of paragraph 2 on the ground—

(i) that he has voluntarily given up his membership of his original political party; or

(ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purpose of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this paragraph

4 *Disqualification on ground of defection not to apply in case of merger.*—

(1) A member of House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the member of the legislature party concerned have agreed to such merger.

5 *Exemption.*—Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative

Assembly of a State, shall not be disqualified under this Schedule.—

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoined such political party after he ceases to hold such office

6. *Decision on question as to disqualification on ground of defection.*—(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

7. *Bar of jurisdiction of courts.*—Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect, of any matter connected with the disqualification of a member of a House under this Schedule.

8. *Rules.*—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belongs;

(b) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the report which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such reports shall be furnished; and

(d) the procedure for deciding any question referred to in sub-paragraph (1) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(2) The rules made by the Chairman or the Speaker of a House under sub-paragraph (1) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or in two more successive sessions and

shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(3) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or, as the case may be, article 194, and to any other power which he may have under this Constitution direct that any wilful contravention by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House."

THE CONSTITUTION (FIFTY-FIRST AMENDMENT) ACT, 1984.

The following Act of Parliament, received the assent of the President, and was published in the *Gazette of India (Extraordinary)*, Part II, Section 1, dated the 29th April, 1985.

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement*—(1) This Act may be called the *Constitution (Fifty-first Amendment) Act, 1984*.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of article 330*—(1) In article 330 of the Constitution, in clause (1), for sub-clause (b), the following sub-clause shall be substituted, namely :—

"(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam ; and".—

(2) The amendment made to article 330 of the Constitution by subsection (1) shall not affect any representation in the House of the People existing at the commencement of this Act.

3. *Amendment of article 332*—(1) In article 332 of the Constitution, in clause (1), for the words "except the Scheduled Tribes in the tribal areas of Assam, in Nagaland and in Meghalaya", the words "except the Scheduled Tribes in the autonomous districts of Assam" shall be substituted.

(2) The amendment made to article 332 of the Constitution by subsection (1) shall not affect any representation in the Legislative Assembly of the State of Nagaland or the Legislative Assembly of the State of Meghalaya until the dissolution of the Legislative Assembly of the State of Nagaland or the Legislative Assembly of the State of Meghalaya existing at the commencement of this Act.

THE HIGH COURT AND SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President on the 24th May, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 43, dated May 25, 1985.

INDIAN PARLIAMENT ACT NO. 36 OF 1985

An Act further to amend the High Court Judges (Conditions) of Service) Act, 1954 and the Supreme Court Judges (Conditions) of Service) Act, 1958,

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :

1. *Short title.*—This Act may be called the **High Court and Supreme Court Judges (Conditions) of Service) Amendment Act, 1985.**

2. *Amendment of section 22B of Act 28 of 1954.*—In the High Court Judges (Conditions of Service) Act, 1954, in section 22B, for the words “three hundred rupees”, the words “five hundred rupees” shall be substituted.

3. *Amendment of Section 23A of Act 41 of 1958.*—In the Supreme Court Judges (Conditions of Service) Act, 1958, in section 23A, for the words “three hundred rupees”, the words “five hundred rupees” shall be substituted.

THE TERRORIST AFFECTED AREAS (SPECIAL COURTS) AMENDMENTS ACT, 1985

The following Act of Parliament received the assent of the President on the 26th August, 1985, and was published in the *Gazette of India, Extraordinary*, Part II, Section 1, No. 58 dated August 26, 1985.

INDIAN PARLIAMENT ACT NO. 45 OF 1985

[26th August 1985]

An Act to amend the Terrorist Affected Areas (Special Courts) Act 1984.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short Title.*—This Act may be called the **Terrorist Affected Areas (Special Courts) Amendment Act, 1985.**

2. *Inspection of new section 15 A.*—In the Terrorist Affected Areas (Special Courts) Act, 1984 (51 of 1984) (hereinafter referred to as the principal Act), after section 15, the following section shall be inserted, namely :—

“15 A *Abolition of certain Special Courts.*—Where the area comprising a judicial zone has ceased to be a terrorist affected area and no cases are pending before a Special Court or an Additional Special Court established in relation to such judicial zone, the Central Government may, by notification in the Official Gazette abolish such Special Court or Additional Special Court”.

2 *Substitution of the Schedule.*—For the Schedule to the principal Act, the following Schedule shall be substituted, namely :—

“THE SCHEDULE

[See section 2 (f)]

1. Offences under the following provisions of the Indian Penal Code (45 of 1860) :—

sections 121, 121A, 122 and 123.

2. Offences under the following provisions of the Anti-Hijacking Act, 1982 (65 of 1982) :—

sections 4 and 5.

Note 1.—The offence of criminal conspiracy or attempt to commit, or

abetment of, an offence specified in this Schedule shall be deemed to be a scheduled offence

Note 2.—The commission of an offence specified in this Schedule by any member of an unlawful assembly shall be deemed to be the commission of that scheduled offence by every other member of the unlawful assembly."

4. *Special Courts to cease to exercise jurisdiction with respect to certain cases and transfer of pending cases*—(1) Notwithstanding anything contained in section 7 of the principal Act but subject to the provisions of sub-section (2), after the commencement of this Act, a Special Court shall not take cognizance of, or have or exercise any jurisdiction with respect to any offence other than an offence mentioned in or connected with an offence mentioned in the Schedule to the principal Act as substituted by section 3 of this Act

(2) Every case which is pending immediately before the commencement of this Act before any Special Court and which is in respect of an offence other than an offence mentioned in, or connected with an offence mentioned in, the Schedule to the principal Act as substituted by section 3 of this Act shall, as soon as may be after such commencement, be transferred to a court which would have had jurisdiction but for the enactment of the principal Act to take cognizance thereof and the court to which the case is so transferred may proceed with the case from the stage at which it was at the time of such transfer as if it had originally taken cognizance of the case and the case was pending with it at that time.

(3) This section shall be read as one with the principal Act and words and expressions used in this section shall be construed accordingly.

THE REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY (AMENDMENT) ACT, 1985.

The following Act of the Indian Parliament received the assent of the President and was published in the *Gazette of India*, (Ext) Part II, Section 1, dated 29th March, 1985

INDIAN PARLIAMENT ACT NO. 20 OF 1985

An Act further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement*.—(1) This Act may be called the *Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1985*.

(2) It shall be deemed to have come into force on the 8th day of March, 1985.

2. *Amendment of Section 6*.—In section 6 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952) (hereinafter referred to as the principal Act), in sub-section (1A), for the words "fifteen years" wherever they occur, the words "seventeen years" shall be substituted.

3. *Amendment of section 8*.—In section 8 of the principal Act, in sub-section (2A), in clause (c), for sub-clause (ii), the following sub-clause shall be substituted, namely :—

(ii) secondly with effect from the date of expiry of five years, and thirdly with effect from the date of expiry of ten years, from the date on which the revision under sub-clause (i) takes effect."

4 *Repeal and saving.*—(1) The Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1985 (2 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE BHOPAL GAS LEAK DISASTER (PROCESSING OF CLAIMS) ACT, 1985.

The following Act of the Indian Parliament received the assent of the President, and was published in the *Gazette of India*, (Extraordinary) Part II, Section 2, dated the 29th March, 1985.

INDIAN PARLIAMENT ACT, NO 21 OF 1985.

An Act, to confer certain powers on the Central Government to secure that claims arising out of, or connected with, the Bhopal gas leak disaster are dealt with speedily, effectively, equitably and to the best advantage of the claimants and for matters incidental thereto.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985.**

(2) It shall be deemed to have come into force on the 20th day of February, 1985.

2. *Definitions* —In this Act, unless the context otherwise requires,—

(a) "Bhopal gas leak disaster" or "disaster" means the occurrence on the 2nd and 3rd days of December, 1984, which involved the release of highly noxious and abnormally dangerous gas from a plant in Bhopal (being a plant of the Union Carbide India Limited, a subsidiary of the Union Carbide Corporation, U.S.A.) and which resulted in loss of life and damage to property on an extensive scale ;

(b) "claim" means—

(i) a claim, arising out of, or connected with, the disaster, for compensation or damages for any loss of life or personal injury which has been, or is likely to be, suffered ;

(ii) a claim, arising out of, or connected with, the disaster, for any damage to property which has been, or is likely to be, sustained ;

(iii) a claim for expenses incurred or required to be incurred for containing the disaster or mitigating or otherwise coping with the effects of the disaster ;

(iv) any other claim (including any claim by way of loss of business or employment) arising out of, or connected with, the disaster ;

(c) "claimant" means a person entitled to make a claim ;

(d) "Commissioner" means the Commissioner appointed under section 6 ;

(e) "person" includes the Government ;

(f) "Scheme" means a Scheme framed under section 9.

Explanation.—For the purposes of clauses (b) and (c), where the death of a person has taken place as a result of the disaster, the claim for compensation or damages for the death of such person shall be for the benefit of the spouse, children (including a child in the womb) and other heirs of the deceased and they shall be deemed to be the claimants in respect thereof.

3. *Power of Central Government to represent claimants.*—(1) Subject to the other provisions of this Act, the Central Government shall, and shall have the exclusive right to represent, and act in place of (whether within or outside India), every person who has made, or is entitled to make, a claim for all purposes connected with such claim in the same manner and to the same effect as such person.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the purposes referred to therein include—

(a) institution of any suit or other proceeding in or before any court or other authority (whether within or outside India) or withdrawal of any such suit or other proceeding, and

(b) entering into a compromise.

(3) The provisions of sub-section (1) shall apply also in relation to claims in respect of which suit or other proceedings have been instituted in or before any court or other authority (whether within or outside India) before the commencement of this Act :

Provided that in the case of any such suit or other proceeding with respect to any claim pending immediately before the commencement of this Act in or before any court or other authority outside India, the Central Government shall represent, and act in place of, or along with, such claimant, if such court or other authority so permits.

4. *Claimant's right to be represented by a legal practitioner.*—Notwithstanding anything contained in section 3, in representing, and acting in place of, any person in relation to any claim, the Central Government shall have due regard to any matters which such person may require to be urged with respect to his claim and shall, if such person so desires, permit at the expense of such person, a legal practitioner of his choice to be associated in the conduct of any suit or other proceeding relating to his claim.

5. *Power of Central Government.*—(1) For the purpose of discharging its functions under this Act, the Central Government shall have the powers of a civil court while trying a suit under the Code of Civil procedure, 1908 (5 of 1908) in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) receiving evidence on affidavits ;

(d) requisitioning any public record or copy thereof from any court or office ;

(e) issuing commissions for the examination of witnesses or documents ;

(f) any other matter which the Central Government may, by notification in the Official Gazette, specify.

(2) Every notification made under clause (f) of sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

6. *Commissioner and other officers and employees.*—(1) For the purpose of assisting it in discharging its functions under this Act, the Central Government may appoint an officer, to be known as the Commissioner for the welfare of the victims of the Bhopal gas leak disaster, and such other officers and employees to assist him as that Government may deem fit.

(2) The Commissioner shall discharge such functions as may be assigned to him by the Scheme.

(3) The Commissioner and such of the officers subordinate to him as may be authorised by the Central Government by notification in the Official Gazette in this behalf may, for the discharge of their functions under the Scheme, exercise all or any of the powers which the Central Government may exercise under section 5.

(4) All officers and authorities of the Government shall act in aid of the Commissioner.

7. *Power to delegate.*—The Central Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, all or any of its powers under this Act (excepting the power under section 9 to frame a Scheme) to the Government of Madhya Pradesh or an officer of the Central Government not below the rank of a Joint Secretary to that Government or an officer of the Government of Madhya Pradesh not below the rank of a Secretary to that Government.

8. *Limitation.*—(1) In computing, under the Limitation Act, 1963 (No. 36 of 1963), or any other law for the time being in force, the period of limitation for the purpose of instituting a suit or other proceeding for the enforcement of a claim, any period after the date on which such claim is registered under, and in accordance with, the provisions of the Scheme shall be excluded.

(2) Nothing in sub-section (1) shall apply to any proceedings by way of appeal.

9. *Power to frame a Scheme.*—(1) The Central Government shall, for carrying into effect the purposes of this Act, frame by notification in the Official Gazette a Scheme as soon as may be after the commencement of this Act.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), a Scheme may provide for all or any of the following matters, namely :—

(a) the registration of the claims under the Scheme and all matters

connected with such registration ;

(b) the processing of the claims for securing their enforcement and matters connected therewith ;

(c) the maintenance of records and registers in respect of the claims ;

(d) the creation of a fund for meeting expenses in connection with the administration of the Scheme and of the provisions of this Act ;

(e) the amounts which the Central Government may, after due appropriation made by Parliament by law in that behalf, credit to the fund referred to in clause (d) and any other amounts which may be credited to such fund ;

(f) the utilisation, by way of disbursal (including apportionment) or otherwise, of any amounts received in satisfaction of the claims ;

(g) the officer (being a judicial officer of a rank not lower than that of a District Judge) who may make such disbursal or apportionment in the event of a dispute.

(h) the maintenance and audit of accounts with respect to the amounts referred to in clauses (e) and (f) ;

(i) the functions of the Commissioner and other officers and employees appointed under Section 6.

(3) Every Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be framed, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that Scheme.

10. Removal of doubts.—For the removal of doubts, it is hereby declared that—

(a) any sums paid by the Government to a claimant otherwise than by way of disbursal of the compensation or damages received as a result of the adjudication or settlement of his claim by a court or other authority, shall be deemed to be without prejudice to the adjudication or settlement by such court or other authority of his claim to receive compensation or damages in satisfaction of his claim and shall not be taken into account by such court or other authority in determining the amount of compensation or damages to which he may be entitled in satisfaction of his claim ;

(b) in disbursing under the Scheme the amount received by way of compensation or damages in satisfaction of a claim as a result of the adjudication or settlement of the claim by a court or other authority, deduction shall be made from such amount of the sums, if any, paid to the claimant by the Government before the disbursal of such amount.

11. Overriding effect.—The provisions of the Act and of any Scheme framed thereunder shall have effect notwithstanding anything inconsistent

therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

12. *Repeal and saving.*—(1) The Bhopal Gas Leak Disaster (Processing of Claims) Ordinance, 1985 (No 1 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE HANDLOOMS (RESERVATION OF ARTICLES PRODUCTION) ACT, 1985

The following Act of the Indian Parliament received the assent of President and was published in the *Gazette of India (Ext.)*, Part II, Section 1, dated the 29th March 1985.

INDIAN PARLIAMENT ACT NO. 22 OF 1985

An Act to provide for reservation of certain articles for exclusive production by handlooms and for matters connected therewith.

Be it enacted by Parliament in the Thirty-sixth Year of Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Handlooms (Reservation of Articles for Production) Act, 1985.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definition*—In this Act, unless the context otherwise requires,—

(a) “Advisory Committee” means the Advisory Committee constituted under section 4 ;

(b) “handloom” means any loom, other than powerloom ;

(c) “manufacturer” includes the producer and processor, and the expression “manufacture” shall be construed accordingly ;

(d) “powerloom” means a loom which is worked by power as defined in clause (g) of Section 2 of the Factories Act 1948 (62 of 1948) ;

(e) “processor” means a person engaged in any ancillary process subsequent to the Production of cloth such as dyeing, bleaching, mercerising, calendaring, embroidering, printing, raising, cloth embossing or any other finishing process, but does not include a producer, and the expression “process” shall be construed accordingly ;

(f) “producer” means a person engaged in the production of cloth on any loom, other than handloom, and shall include a person who owns, works or operations on, a loom for the production of cloth, and the expression “produce” shall be construed accordingly.

3. *Power to specify articles for exclusive production by handlooms.*—

(1) Notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government may, if it is satisfied, after considering the recommendations made to it by the Advisory Committee, that it is necessary so to do for the protection and development of the handloom industry, by an order published in the official gazette, direct from time to time, that any article or class of articles shall, on and from such date as may be specified in the order (hereinafter referred to as the date of reservation), be reserved for exclusive production by

handlooms.

(2) Every order published under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

4. *Constitution of Advisory Committee.*—(1) The Central Government shall, with a view to determining the nature of any article or class of articles that may be reserved for exclusive production by handlooms, constitute an Advisory Committee consisting of such person as have, in the opinion of that Government the necessary expertise to give advice on the matter.

(2) The Advisory Committee shall, after, considering the following matters, communicate its recommendations to the Central Government, namely :—

(a) the article or class of articles which is being produced by handlooms for mass consumption ;

(b) the article or class of articles which is being produced traditionally by handlooms ;

(c) the level of employment likely to be generated by the production of the article or class of articles referred to in clause (a) or clause (b) exclusively by handlooms ;

(d) the protection of interests of persons engaged in the handloom industry and the need for the continued maintenance of the industry ; and

(e) such other matters as the Advisory Committee may think fit.

5. *Prohibition of production of articles exclusively reserved for handlooms.*—Where an order has been made under section 3 reserving any article or class of articles for exclusively production by handlooms, such article or class of article shall not, on and from the date of reservation, be produced by any loom, other than handloom :

Provided that any person who, immediately before the date of reservation of any article or class of articles, was engaged in the production of such article or class of articles in any loom, other than handloom may continue to be so engaged till the expiry of three months from the date of such reservation.

6. *Power to call for information or to furnish samples.*—(1) The Central Government may, by order, require any manufacturer to furnish, for the purposes of this Act,—

(a) such information in his possession with respect to any manufacturing activity or business carried on by him or any other person to any officer or authority specified by it in such form and within such period as may be specified by that Government in the order :

(b) such samples of any articles manufactured by him or by any other person for inspection by such officer or authority, at such places and within such period as may be specified by it in the order.

(2) Where any order has been issued to any manufacturer under sub-section (1), he shall comply with such order.

7. *Power to enter and inspect.*—Any officer authorised by the Central Government (hereinafter referred to as the authorised officer) may enter, at all reasonable times, any place or premises of any manufacture in which any textile articles are stored, kept or exposed for sale and may require the production for inspection of any books of account, registers, records or other documents kept therein and ask for such information relating to the manufacture, storage or keeping for sale of any such articles or to any powerlooms that may be found in such place as he may think fit for the purposes of carrying into effect the provisions of this Act.

8. *Power to search and seize.*—(1) If the authorised officer has reason to believe that,—

(a) any article or class of articles specified in any order made under section 3 is being produced in any place in contravention of such order; or

(b) any article or class of articles produced in contravention of such order are secreted in any place; or

(c) any article or class of articles is liable to forfeiture under this Act,

he may enter into and search place or premises for such article, or class of article or any powerloom which in the opinion of the authorised officer may have been used for the production of such article or class of articles.

(2) Where, as a result of any search made under sub-section (1), any article or class of articles or any powerloom has been found and the authorised officer has reason to believe that such article or class of articles has been produced, or such powerloom has been used for the production of any article or class of articles, in contravention of any order made under section 3, he may seize such article, class of articles or powerloom, together with the package, covering or receptacle, if any, in which such article or class of articles is found :

Provided that where it is not practicable to seize any article or powerloom, the authorised officer may serve on the owner of the article or the powerloom as the case may be, an order that he shall not remove, part with, or otherwise deal with, the article or powerloom except with the previous permission of such authorised officer.

(3) Where any article or powerloom is seized under sub-section (2) and no prosecution has been launched within six months of such seizure, it shall be returned to the person from whose possession it was seized.

(4) The authorised officer may also seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(5) The person from whose custody any documents are seized under sub-section (4) shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised officer.

(6) If any person legally entitled to the documents or things seized

under sub-section (4) objects, for any reason, to the retention by the authorised officer of the documents or things, he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the documents or things.

(7) On receipt of an application under sub-section (6), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit.

9. *Search and seizure to be made in accordance with the Code of Criminal Procedure, 1973.*—The provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974), relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

10. *Penalty for contravention of orders made under section 3.*—Whoever produces any article or class of articles in contravention of an order made under section 3,—

(a) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees per loom by which the said article or class of articles is produced, or with both, and in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees per loom for every day during which such contravention continues after conviction for the first such contravention; and

(b) the article or class of articles in respect of which the order has been contravened or any powerloom by the use of which such order is contravened, including any package, covering or receptacle in which the article or class of articles is found, shall be forfeited to the Central Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of any of the articles, powerloom or any package, covering or receptacle, it may, for reasons to be recorded, refrain from doing so.

11. *False statement.*—If any person,—

(a) when required by any order made under section 6 to furnish any information or sample, makes any statement or furnishes any information which is false in any material particular and which he knows, or has reasonable cause to believe to be false or does not believe it to be true, or fails to furnish such sample or damages or destroys any article from which such sample was required; or

(b) when required by the authorised officer under section 7 to produce any books of account, registers, records or other documents, fails to produce, or damages or destroys any such books, registers or other documents, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

12. *Attempts and abetment.*—Any person who attempts to contravene or abets the contravention of any order made under section 3 shall be deemed to have contravened that order.

13. *Offences by companies.*—(1) Where an offence under this Act has

been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a co-operative society registered or deemed to be registered under any law for the time being in force, a firm or other association of individuals ; and

(b) “director” in relation to a firm, means a partner in the firm.

14. *Offences to be cognizable*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974), every offence punishable under this Act shall be cognizable

15. *Power to delegate*.—The Central Government may, by order, direct that the powers exercisable by it under any provision of this Act, other than the power to make orders under section 3 or under section 18 or to make rules under section 19, shall in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to a State Government, as may be specified in the direction.

16. *Power of Central Government to give directions*.—The Central Government may give such directions as it may consider necessary to a State Government as to the carrying into execution of the provisions of this Act.

17. *Protection of action taken in good faith*.—No suit, prosecution or other legal proceeding shall lie against the Central Government, State Government or any officer or employee of the Central Government or of any State Government or any authorised officer for anything which is in good faith done or intended to be done under this Act or an order made under section 3.

18. *Power to exempt*.—(1) If the Central Government is satisfied that, the demand for any article or class of articles reserved by an order under section 3 outside India is such that it is not possible for the handloom industry to meet such demand or any such article or class of articles is required to be produced for purposes of research or for the development

of markets for such article or class of articles or of the handloom industry generally, it is necessary or expedient so to do, it may, by order published in the Official Gazette, exempt such article or class of articles from the operation of such order, and permit such article or class of articles to be produced by any powerloom solely for the purposes of export or research by such institutions as may be specified in the order.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

19. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE COMPULSORY DEPOSIT SCHEME (INCOME TAX PAYERS) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President and was published in the *Gazette of India (Extraordinary)*, Part II, Section I, dated the 30th March, 1985.)

INDIAN PARLIAMENTARY ACT NO. 25 OF 1985

An Act further to amend the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follow :—

1. *Short title.*—This Act may be called the **Compulsory Deposit Scheme (Income-tax Payers) Amendment Act, 1985**.

2. *Amendment of section 8.*—In section 8 of the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 (38 of 1974), in sub-section (1),—

(a) in the proviso, for the words “Provided that” the words “Provided further that” shall be substituted ;

(b) before the proviso as so amended, the following proviso shall be inserted, namely :—

“Provided that no depositor shall be entitled to withdraw before the

expiry of the financial year 1985-86 any amount which, in accordance with the foregoing provisions of this sub-section, is repayable or payable during that financial year and the provisions of sub-section (2) shall apply in relation to such amount as they apply in relation to any amount referred to in that sub-section".

THE UNION DUTIES OF EXCISE (DISTRIBUTION) AMENDMENT ACT, 1985

The following Act of Parliament, received assent of the President and was published in the *Gazette of India, (Extraordinary)*. Part II, Section I, Dated the 30th March 1985.

INDIAN PARLIAMENT ACT, NO. 26 OF 1985

An Act further to amend the Union Duties of Excise (Distribution) Act, 1979.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follow :—

1. *Short title and commencement.*—(1) This Act may be called the Union Duties of Excise (Distribution) Amendment Act, 1985.

(2) It shall come into force on the 1st day of April 1985.

2. *Amendment of long title of Act 24 of 1979.*—In the Union Duties of Excise (Distribution) Act, 1979 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "interim report dated the 14th day of November, 1983." the words, figures and letters "report dated the 30th day of April 1984" shall be substituted.

3. *Substitution of new section for section 2.*—For section 2 of the principal Act, the following section shall be substituted, namely :—

"2. *Definition.*—In this Act, the expression "distributable Union duties of excise" means,—

(a) in respect of financial year commencing on the first day of April, 1984, forty per cent of the net proceeds of Union duties of excise, other than on electricity.

(b) in respect of each of the financial years commencing on or after the 1st day of April, 1985, forty-five per cent of the net proceeds of Union duties of excise.

levied and collect under the Central Excises and Salt Act, 1944, (1 of 1944), and any other law for the levy and collection of such duty, unless the law earmarks the proceeds of the duty for any special purpose.

Explanation.—The expression "net proceeds" has the same meaning as in clause (1) of article 279 of the constitution".

4. *Amendment of Section 3.*—Section 3 of the Principal Act shall be re-numbered as sub-section (1) thereof and—

(a) in sub-section (1) as so re-numbered, for the words "be distributed, provisionally," the words "be distributed" shall be substituted ;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

"(2) During the financial year commencing on the 1st day April, 1985 and each of the three succeeding financial years, there shall be paid, out of the Consolidated Fund of India, to the States sums equivalent to the distributable Union duties of excise levied and collected in that year, and,—

(a) eight-ninths of the sums so payable during each such financial year shall be distributed to each of the States specified in column (1) of Table I below in such percentage as is set out against it in column (2) thereof ; and

(b) one ninth of the sums so payable during each such financial year shall be distributed to each of the States specified in column (1) of Table II below in such percentage as is set out against it in column (2) thereof with respect to that financial year.

Table I

State (1)	Percentage (2)
Andhara Pradesh	8.587
Assam	2.977
Bihar	13.202
Gujarat	3.506
Haryana	1.017
Himachal Pradesh	0.589
Jammu and Kashmir	0.856
Karnataka	5.077
Kerala	3.800
Madhaya Pradesh	8.852
Maharashtra	6.216
Manipur	0.233
Meghalaya	0.194
Nagaland	0.096
Oriassa	4.592
Punjab	1.317
Rajasthan	4.695
Sikkim	0.039
Tamil Nadu	7.317
Tripura	0.292
Uttar Pradesh	19.097
West Bengal	7.449

Table II

State (1)	Financial year and percentage (2)			
	1985-86	1986-87	1987-88	1988-89
Assam	12.578	12.713	13.418	12.023
Himachal Pradesh	11.528	12.914	14.098	16.475
Jammu & Kashmir	16.661	17.818	18.560	20.254
Manipur	7.742	8.722	9.545	11.217
Meghalaya	6.180	6.944	7.570	8.863

1	2		
Nagaland	9.944	11.240	14.482
Orissa	8.154	5.457	0.598
Sikkim	1.836	2.051	2.593
Tripura	9.104	10.207	12.956
West Bengal	16.273	11.934	0 539"

THE ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President and was published in the *Gazette of India (Ext.)*, Part II, Section I, dated the 30th March, 1985.

INDIAN PARLIAMENT ACT NO. 27 OF 1985

An Act further to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Additional Duties of Excise (Goods of special Importance) Act, 1985.

(2) It shall come into force on the 1st day of April, 1985.

2. *Amendment of long title of Act 58 of 1957*—In the Additional Duties of Excise (Goods of special Importance) Act, 1957 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters “interim report dated the 14th day of November, 1983”, the words, figures and letters “report dated the 30th day of April, 1984” shall be substituted.

3. *Amendment of Second Schedule.*—In the principal Act, in the Second Schedule,—

(a) in paragraphs 1, 2 and 3 the word “provisionally” shall be omitted;

(b) after paragraph 3, the following paragraph shall be inserted, namely :—

“4. *Sugar, tobacco and fabrics.*—During each of the financial years commencing on and after the 1st day of April 1985, there shall be paid to each of the States specified in column 1 of the Table below such percentage of the net proceeds of additional duties levied and collected during that financial year in respect of sugar, tobacco, cotton fabrics, silk fabrics, woollen fabrics and man-made fabrics after deducting therefrom a sum equal to 2.391 per cent, of the said proceeds as being attributable to Union territories as is set out against it in column 2 :

Provided that if during that financial year there is levied and collected in any State a tax on the sale or purchase of sugar, tobacco, cotton fabrics, silk fabrics, woollen fabrics, and man-made fabrics or one or more of them by or under any law of that State, no sums shall be payable to that State under this paragraph in respect of that financial year, unless the Central Government by special order otherwise directs.

TABLE

State (1)	Percentage (2)
Andhra Pradesh	7.504
Assam	2.566
Bihar	8.627
Gujarat	5.941
Haryana	2.488
Himachal Pradesh	0.663
Jamma and Kashmir	0.853
Karnataka	5.561
Kerala	3.963
Madhya Pradesh	6.942
Mahrashtra	11.461
Manipur	0.178
Meghalaya	0.183
Nagaland	0.098
Orissa	3.653
Punjab	3.675
Rajasthan	4.827
Sikkim	0.039
Tamil Nadu	7.549
Tripura	0.287
Uttar Pradesh	14.318
West Bengal	8.624."

THE NATIONAL SECURITY (AMENDMENT) ACT, 1985.

The following Act of Parliament received the assent of the President and was published in the *Gazette of India*, (Extraordinary), Part II, Section 1, dated the 29th March, 1985.

INDIAN PARLIAMENT ACT NO. 23 OF 1985.

An Act, further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1 *Short title.*—This Act may be called the National Security (Amendment) Act, 1985.

2. *Amendment of section 14A.*—In the National Security Act, 1980 (65 of 1980), as applicable to the State of Punjab and the Union territory of Chandigarh, in sub-section (1) of section 14A, for the figures, letters and words "3rd day of April, 1985", the figures, letters and words "3rd day of April, 1986" shall be substituted.

THE ESTATE DUTY (DISTRIBUTION) AMENDMENT ACT, 1985.

The following Act of Parliament received the assent of the President and was published in the *Gazette of India*, (Extraordinary) Part II, Section 1, dated the the 30th March, 1985.

INDIAN PARLIAMENT ACT. NO. 28 OF 1985.

An Act further to amend the Estate Duty (Distribution) Act, 1962.

Be it enacted by Parliament in the Thirty sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Estate Duty (Distribution) Amendment Act, 1985.**

(2) It shall come into force on the 1st day of April, 1985.

2. *Amendment of long title of Act 9 of 1962*—In the long title of the Estate Duty (Distribution) Act, 1962 (hereinafter referred to as the principal Act), for the words, figures and letters “interim report dated the 14th day of November, 1983”, the words, figures and letters “report dated the 30th day of April, 1984” shall be substituted.

3. *Amendment of section 3.*—In section 3 of the principal Act, in sub-section (1)—

(a) for the words, figures and letters “the financial year commencing on the 1st day of April, 1984”, the words, figures and letters “each of the financial years commencing on and after the 1st day of April, 1984” shall be substituted ;

(b) for the words “be distributed, provisionally”, the words “be distributed” shall be substituted.

THE GOVERNMENT OF UNION TERRITORIES (AMENDMENT) ACT, 1985.

The following Act of Parliament received the assent of the President and was published in the *Gazette of India, (Extraordinary)* Part II, Section 1, dated the 29th March, 1985.

INDIAN PARLIAMENT ACT NO. 24 OF 1985.

An Act further to amend the Government of Union Territories Act, 1963.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title*—This Act may be called the **Government of Union Territories (Amendment) Act, 1985.**

2. *Amendment of section 13.*—In the Government of Union Territories Act, 1963 (20 of 1963), (hereinafter referred to as the principal Act), in section 13, in clause (a) of sub-section (2), for the word and figures “section 14” the words, figures and letter “section 14 or section 14A” shall be substituted.

3. *Insertion of new section 14A.*—After section 14 of the principal Act, the following section shall be inserted, namely :—

“14A *Disqualification on ground of defection for being a member.*—The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing references, therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly of a Union territory, section 11, section 16 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly of a Union territory as they apply to and in relation to the members of the Legislative Assembly of a State, and accordingly:—

(a) the said Tenth Schedule as so modified shall be deemed to form part of this Act ; and

(b) a person shall be disqualified for being a member of the Legislative Assembly of a Union territory if he is so disqualified under the said Tenth Schedule as so modified."

THE APPROPRIATION (RAILWAYS) NO. 2 ACT, 1985.

The following Act of Parliament received the assent of the President on the 9th February, 1985, and was published in the *Gazette of India* (Extraordinary), Part II, Section 1, No. 7, dated February 11, 1985.

INDIAN PARLIAMENT ACT NO. 7 OF 1985.

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1984-85 for the purposes of Railways.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (Railways) No. 2 Act, 1985.

(Text omitted)

THE PUNJAB APPROPRIATION ACT, 1985

The following Act of Parliament received the assent of the President on the 9th February, 1985, and was published in the *Gazette of India* (Ext.), Part II, Section 1, No. 8, dated February 11, 1985.

INDIAN PARLIAMENT ACT NO. 8 OF 1985

[9th February, 1985]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year of 1984-85.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Punjab Appropriation Act, 1985.

(Text omitted)

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1985

The following Act of Parliament received the assent of the President on the 29th March, 1985, and was published in the *Gazette of India* (Ext.), Part II, Section 1, No. 17, dated March 29, 1985.

INDIAN PARLIAMENT ACT NO. 14 OF 1985

[29th March, 1985]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 1985-86.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (Vote on Account) Act, 1985.

(Text omitted)

THE APPROPRIATION (NO. 3) ACT, 1985.

The following Act of Parliament received the assent of the President on the 29th March, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 18, dated the March 29, 1985.

INDIAN PARLIAMENT ACT NO. 15 OF 1985

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1984-85.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (No. 3) Act, 1985.

(Text omitted)

THE APPROPRIATION (RAILWAYS) NO. 3 ACT, 1985

The following Act of Parliament received the assent of the President on the 29th March, 1985 and was published in the *Gazette of India, Extraordinary*, Part II, Section 1, No. 16, dated the March 29, 1985.

INDIAN PARLIAMENT ACT NO. 16 OF 1985

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the services of the financial year 1985-86 for the purposes of Railways.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (Railways) No. 3 Act, 1985.

(Text Omitted))

THE APPROPRIATION (RAILWAYS) NO. 4 ACT, 1985

The following Act of Parliament received the assent of the President on the 29th March, 1985, and was published in the *Gazette of India, Extraordinary*, Part II, Section 1, No. 20, dated the March 29, 1985.

INDIAN PARLIAMENT ACT NO. 17 OF 1985

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1984-85 for the purposes of Railways.

Be a enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (Railways) No. 4 Act, 1985.

(Text Omitted)

THE PUNJAB APPROPRIATION (VOTE ON ACCOUNT) ACT, 1985

The following Act of Parliament received the assent of the President on the 29th March, 1985, and was published in the *Gazette of India, Extraordinary*, Part II, Section 1, No. 21, dated the March 29, 1985.

INDIAN PARLIAMENT ACT NO. 18 OF 1985

An Act to provide for the withdrawal of certain sums from and out of

the Consolidated Fund of the State of Punjab for the services of a part of the financial year 1985-86.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Punjab Appropriation (Vote on Account) Act, 1985.

(Text Omitted)

THE PUNJAB APPROPRIATION (NO. 2) ACT, 1985.

The following Act of Parliament received the assent of the President on the 29th March, 1985 and was published in the *Gazette of India*, (Extraordinary), Part II, Section 1, No. 22, dated March 29, 1985.

INDIAN PARLIAMENT ACT NO. 19 OF 1985

[29th March, 1985]
An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1984-85.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follow :—

1. *Short title.*—This Act may be called the Punjab Appropriation (No. 2) Act, 1985.

(Text omitted)

THE APPROPRIATION (NO. 4) ACT, 1985.

The following Act of Parliament received the assent of the President on the 16th May, 1985 and was published in the *Gazette of India*, (Extraordinary), Part II, Section 3(1), No. 36, dated the May 16, 1985.

INDIAN PARLIAMENT ACT. NO. 29 OF 1984.

[16th May, 1985]
An Act to authorise payment and appropriation of certain sums, from and out of the Consolidated Fund of India for the services of the financial year 1984-85.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (No. 4) Act, 1985.

(Text omitted)

THE CALCUTTA METRO RAILWAY (OPERATION AND MAINTENANCE) TEMPORARY PROVISIONS ACT, 1985.

The following Act of Parliament received the assent of the President on the 16th February, 1985 and was published in the *Gazette of India*, (Extraordinary), Part II, Section 1, No. 11 dated February 16, 1985.

INDIAN PARLIAMENT ACT NO. 10 OF 1985.

An Act to make temporary provisions for the operation and maintenance of the Calcutta metro railway and for matters connected therewith, pending the making of regular arrangements for such operation and maintenance.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title, commencement and application.*—(1) This Act may be called the **Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Act, 1985**

(2) It shall be deemed to have come into force on the 22nd day of October, 1984.

(3) It shall apply to the metropolitan city of Calcutta.

2. *Definitions*—(1) In this Act, unless the context otherwise requires,—

(a) “Calcutta metro railway administration” or “metro railway administration” means the General Manager of the metro railway appointed under section 3 of the Construction Act ;

(b) “commissioner” means a commissioner of the metro railway appointed under section 27 of the Construction Act ;

(c) “Construction Act” means the Metro Railways (Construction of Works) Act, 1978 (33 of 1978) ;

(d) “metro railway” means such portion of the metro railway constructed in the metropolitan city of Calcutta under the provisions of the Construction Act as may, for the time being, be available for public carriage of passengers, and includes—

(i) all land within the boundary marks indicating the limits of the land appurtenant to the metro railway ;

(ii) all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, the metro railway ;

(iii) all stations, offices, ventilation shafts and ducts, warehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with, the metro railway ;

(e) “prescribed” means prescribed by rules made under this Act.

(2) All other words and expressions used herein and not defined but defined in the Indian Railways Act, 1890 (9 of 1890) or the Metro Railways (Construction of Works) Act, 1978 (33 of 1978) shall have the meanings, respectively, assigned to them in those Acts.

CHAPTER II

The Calcutta Metro Railway Administration

3. *Calcutta metro railway administration to be responsible for the operation and maintenance of the metro railway.*—(1) Subject to the other provisions of this Act, the Calcutta metro railway administration shall be responsible for the operation and maintenance of the metro railway.

(2) The Calcutta metro railway administration may, for the efficient performance of its functions under this Act, appoint such officers and other employees as it considers necessary on such terms and conditions of services as may be prescribed.

4. *Previous sanction of the Central Government required for the opening of metro railway.*—(1) No metro railway shall be opened for the public carriage of passengers except with the previous sanction of the Central Government.

(2) Before giving its sanction under sub-section (1), the Central Government shall, after considering the report given (whether before or

after the commencement of this Act) by the commissioner under clause (a) of sub-section (2) of section 27 of the Construction Act and other relevant factors, satisfy itself that the metro railway can be opened without danger to the public using it.

(3) A sanction given under this section may be either absolute or subject to such conditions as the Central Government thinks necessary for the safety of the public.

(4) Where any sanction for the opening of the metro railway under this section is given subject to any conditions, such railway shall not be worked or used until such conditions are fulfilled to the satisfaction of the Central Government.

CHAPTER III

Special provisions for the running of the Metro Railway

5. *Carriage of goods.*—(1) No person shall, while travelling in the metro railway, carry with him any goods other than a small baggage containing personal belongings not exceeding such volume and weight as may be prescribed.

(2) Where any person travels in the metro railway in contravention of the provisions of sub-section (1), he shall, notwithstanding that he holds a valid pass or ticket for any travel in such railway, be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf or by other person whom such metro railway official may call to his aid.

6. *Reservation of compartments for females not necessary.*—It shall not be necessary for the metro railway administration to reserve any compartment in any train for the exclusive use of females.

7. *Dangerous or offensive goods.*—(1) No person shall take or cause to be taken any dangerous or offensive goods upon the metro railway.

(2) If any metro railway official has reason to believe that any such goods are contained in a package in the custody of any passenger, he may cause the package to be opened for the purpose of ascertaining its contents.

8. *Penalty for taking or causing to take offensive or dangerous goods upon the metro railway.*—(1) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any offensive goods upon the metro railway, he shall be punishable with fine which may extend to five hundred rupees.

(2) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any dangerous goods upon the metro railway, he shall be punishable with imprisonment for a term which may extend to four years and with fine which may extend to five thousand rupees.

(3) In addition to the penalties specified in sub-section (1) or sub-section (2), a person taking or causing to be taken any offensive goods or dangerous goods upon the metro railway shall be responsible also for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the metro railway.

9. *Smoking in compartments, etc.*—(1) No person shall smoke in any compartment or carriage of the metro railway or in any underground metro railway station.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) If any person persists in so smoking after being warned by any metro railway official to desist, he may, in addition to incurring the liability mentioned in sub-section (2), be removed from the compartment or carriage in which he is travelling or from the underground station at which he may be found smoking by any metro railway official authorised by the metro railway administration in this behalf.

10. *Drunkenness or nuisance upon the metro railway.*—(1) If any person,—

(a) is in a State of intoxication ; or

(b) commits any nuisance or act of indecency, or uses obscene or abusive language ; or

(c) wilfully or without excuse interferes in any way with the comfort of any passenger, in any carriage or upon any part of the metro railway, he shall be punishable with fine which may extend to two hundred and fifty rupees and shall also be liable to forfeiture of the fare which he may have paid or any pass or ticket which he may have obtained or purchased, or be removed from such carriage or part by any metro railway official authorised by the metro railway administration in this behalf.

(2) If any metro railway official is in a state of intoxication while on duty, he shall be punishable with fine which may extend to two hundred and fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any passenger travelling or being upon the metro railway, with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both

11. *Prohibition of demonstrations upon the metro railway.*—(1) No demonstration of any kind whatsoever shall be held on any part of the metro railway or other premises thereof and it shall be open to the metro railway administration to exclude from such premises any person attending such demonstrations whether or not he is in possession of a pass or ticket entitling him to be in the said premises.

(2) No person shall paste or put up any poster or write or draw anything or matter in any compartment or carriage of the metro railway or any premises thereof, without any lawful authority and any person found engaged in doing any such act may be removed from the compartment, carriage or premises by any metro railway official authorised by the metro railway administration in this behalf.

(3) Whoever contravenes any of the provisions of sub-section (1) or sub-section (2), or being asked by any metro railway official to leave any compartment, carriage or premises refuses to do so, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

12. *Penalty for travelling on roof, etc. of a train.*—If any passenger travels on the roof of a train or persists in travelling in any part of a

train not intended for the use of passengers or projects any part of his body out of a train after being warned by any metro railway official to desist, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf.

13 *Penalty for unlawfully entering or remaining upon the metro railway or walking on the metro railway line.*—(1) If a person enters into or upon the metro railway without any lawful authority or having entered with lawful authority remains there unlawfully and refuses to leave on being requested to do so by any metro railway official, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(2) If any person walks on the metro railway line without any lawful authority, he shall be punishable with imprisonment for a term which may extend to five hundred rupees, or with both.

14 *Endangering the safety of passengers.*—If any metro railway official, when on duty, endangers the safety of any passenger,—

(a) by any rash or negligent act or omission ; or

(b) by disobeying any rule or order which such official was bound by the terms of his employment to obey, and of which he had notice, he shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to six thousand rupees, or with both

15 *Abandoning train, etc. without authority.*—If any metro railway official when on duty, is entrusted with any responsibility connected with the running of a train or any rolling stock from one station or place to another station or place, and he abandons his duty before reaching such station or place, without authority or without properly handing over such train or rolling stock to another authorised metro railway official, he shall be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

16 *Obstructing running of trains, etc.*—If any person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon the metro railway by squatting picketing, or keeping without authority any rolling stock on the metro railway or tampering with any signalling installations or by interfering with the working mechanism thereof, or otherwise, he shall be liable to be removed by any metro railway official authorised by the metro railway administration in this behalf and shall also be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

17 *Offences by Companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER IV

Miscellaneous

18. *Application of Act 9 of 1890 and the rules, etc., made thereunder to the metro railway.*—Save as otherwise expressly provided in this Act, the provisions of the Indian Railways Act, 1890, and the rules, orders or notifications made or issued thereunder shall, so far as may be, and subject to such modifications as may be necessary, apply to the operation and maintenance of the metro railway, as if such metro railway were a railway as defined under that Act, and the references to “railway administration” and “inspector” in that Act shall be construed as references to the “metro railway administration” and “commissioner” respectively.

19. *Effect of Act and rules, etc., inconsistent with other enactments.*—The provisions of this Act or any rule made or any notification issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

20. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government, the metro railway administration or any officer or other employee of that Government or the metro railway administration for anything which is in good faith done or intended to be done under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway administration for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

21. *Power to remove difficulties*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

22. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely :—

(a) the terms and conditions of service of the officers and other employees of the metro railway administration under sub-section (2) of section 3 ;

(b) the cases in which and the extent to which the procedure specified in section 4 for the opening of the metro railway for public carriage of passengers may be dispensed with ;

(c) the volume and weight of the baggage containing personal belongings that may be carried by a person while travelling in the metro railway ;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

23. *Repeal and saving.*—(1) The Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Ordinance, 1984 (13 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE APPROPRIATION (RAILWAYS) ACT, 1985.

The following Act of Parliament received the assent of the President on the 9th February, 1985, and was published in the *Gazette of India*, (Ext), Part II, Section 1, No. 6, dated 11th February, 1985.

INDIAN PARLIAMENT ACT No. 6 OF 1985,

[9th February, 1985.]

An Act to provided for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of railways during the financial year ended on the 31st day of March, 1983, in excess of the amounts granted for those services and for that year.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (Railways) Act, 1985.

(Text omitted).

**THE GANGTOK MUNICIPAL CORPORATION
(AMENDMENT) ACT, 1985.**

The following Act of Parliament received the assent of the President on the 16th February, 1985 and was published in the *Gazette of India, Extraordinary*, Part II, Section 1, No. 13, dated 16th February, 1985.

INDIAN PARLIAMENT ACT No. 12 of 1985.

16th February, 1985]

An Act further to amend the Gangtok Municipal Corporation Act, 1975.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Gangtok Municipal Corporation (Amendment) Act, 1985.

(2) It shall be deemed to have come into force on the 17th day of December, 1984.

2. *Amendment of section 3.*—In the Gangtok Municipal Corporation Act, 1975 (Sikkim Act No. IV of 1975) (hereinafter referred to as the principal Act), in section 3, in the proviso to sub-section (5), for the words “one year”, the words “one year at a time, but not beyond a total period of two years” shall be substituted.

3. *Repeal and saving.*—(1) The Gangtok Municipal Corporation Amendment) Ordinance, 1984 (Sikkim Ordinance No. 1 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE COINAGE (AMENDMENT) ACT, 1985.

The following Act of Parliament received the assent of the President on the 24th May, 1985, and was published in the *Gazette of India, Extraordinary*, Part II, section 1, No 1, dated 25th May, 1985.

INDIAN PARLIAMENT ACT No. 33 of 1985.

An Act further to amend the Coinage Act, 1906.

Be it enacted by Parliament in the thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Coinage (Amendment) Act, 1985.

2. *Amendment of section 6.*—Section 6 of the Coinage Act, 1906 (3 to 1906) shall be re-numbered, as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may authorise the coining, in like manner as is provided in that sub-section, of coins by any person (including the Government of any foreign country), beyond the limits

of India and import such coins for issue under its authority under that sub-section.”.

THE ANDHRA PRADESH LEGISLATIVE COUNCIL (ABOLITION) ACT, 1985.

The following Act of Parliament received the assent of the President on the 24th May, 1985, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 41, dated 25th May, 1985.

INDIAN PARLIMENT ACT No. 34 of 1985.

[24th May, 1985]

An Act to provide for the abolition of the Legislative Council of the State of Andhra Pradesh and for matters supplemental, incidental and consequential thereto.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement*—(1) This Act may be called the Andhra Pradesh Legislative Council (Abolition) Act, 1985.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions*.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means, as respects a law relating to a matter enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the State Government;

(b) “article” means an article of the Constitution;

(c) “Council” means the Legislative Council of the State of Andhra Pradesh;

(d) “law” includes any enactment ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law in the whole or any part of the State of Andhra Pradesh;

(e) “Legislative Assembly” means the Legislative Assembly of the State of Andhra Pradesh.

3. *Abolition of the Council*.—(1) The Legislative Council of the State of Andhra Pradesh is hereby abolished.

(2) On the abolition of the Council, every member thereof shall cease to be such member.

4. *Amendment of Article 168*—In sub-clause (a) of clause (1) of article 168, the words “Andhra Pradesh” shall be omitted.

5. *Amendment of Act 43 of 1950*.—In the Representation of the People Act, 1950,—

(a) in the Third Schedule, entry No. 1 relating to Andhra Pradesh shall be omitted;

(b) in the Fourth Schedule, the heading “Andhra Pradesh” and the entries thereunder shall be omitted

6. *Omission of Section 3 of the Legislative Council Act, 1957*—Section 3 of the Legislative Councils Act, 1957 (37 of 1957), shall be omitted.

7. *Provision as to pending Bills*.—(1) A Bill pending in the Council immediately before the commencement of this Act which has not been passed by the Legislative Assembly shall lapse on the abolition of the Council.

(2) A Bill pending in the Council immediately before the commencement of this Act which has been passed by the Legislative Assembly shall not lapse on the abolition of the Council, but on such abolition shall be deemed to have been passed before such commencement by both Houses of the Legislature of the State of Andhra Pradesh in the form in which it was passed by the Legislative Assembly.

(3) If a Bill which having been passed by the Legislative Assembly is, before the commencement of this Act, either rejected by the Council or passed by the Council with amendments; the Legislative Assembly may, after such commencement, pass the Bill again with or without such amendments, if any, as have been made by the Council and the Bill so passed shall be deemed to be a bill introduced in and passed by the Legislative Assembly after the commencement of this Act.

8. *Power to adapt laws.*—This appropriate Government may, before the expiration of one year from the commencement of this Act, by order, published in the Official Gazette, make such adaptations and modifications of any law made before such commencement whether by way of repeal or amendment as may be necessary or expedient in consequence of the abolition of the Council under section 3, and thereupon every such law shall have effect subject to the adaptations and modifications so made.

9. *Power to construe laws.*—Notwithstanding that no provision or insufficient provision has been made under section 8 for the adaptation or modification of a law made before the commencement of this Act, any court, tribunal or authority required or empowered to enforce such law may construe the law in such manner, without affecting the substance, as may be necessary or proper on account of the abolition of the Council, in regard to the matter before the court, tribunal or authority.

THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES (AMENDMENT) ACT, 1985.

The following Act of Parliament received the assent of the President on the 28th May, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 45, dated 29th May, 1985.

INDIAN PARLIAMENT ACT No. 38 OF 1985.

[28th May, 1985]

An Act further to amend the Monopolies and Restrictive Trade Practices Act, 1969.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title* —This Act may be called the **Monopolies and Restrictive Trade Practices (Amendment) Act, 1985**.

2. *Amendment of Act 54 of 1969.*—In the Monopolies and Restrictive Trade Practices Act, 1969, in section 20, in clause (a), for the words “twenty crores”, the words “one hundred crores” shall be substituted.

THE ARMS (AMENDMENT) ACT, 1985.

The following Act of Parliament received the assent of the President on the 28th May, 1985 and was published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 46, dated 29th May, 1985.

INDIAN PARLIAMENT ACT NO. 39 OF 1985.

An Act further to amend the Arms Act, 1959.

Be it enacted by Parliament in the thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Arms (Amendment) Act, 1985.

2. *Amendment of section 25 of Act 54 of 1959.*—In section 25 of the Arms Act, 1959,—

(a) in sub-section (1A), for the words “one years, but which may extend to five years”, the words “three years, but which may extend to seven years” shall be substituted;

(b) in sub-section (1B), for the words “six months”, at both the places where they occur, the words “one year” shall be substituted;

(c) after sub-section (1B), the following sub-section shall be inserted, namely :—

“(1C) Notwithstanding anything contained in sub-section (1A) whoever commits an offence punishable under that sub-section in any disturbed area shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation.—For the purposes of this sub-section, “disturbed area” means any area declared to be a disturbed area under any enactment, for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order, and includes any area specified by notification under section 24A or section 24B.”

THE JUDGES (PROTECTION) ACT, 1985

The following Act of Parliament received the assent of the President on the 6th September, 1985, and published in the *Gazette of India*, (Ext.) Part II, Section 1, No 73 dated 9th September, 1985.

INDIAN PARLIAMENT ACT No. 59 OF 1985

[6th September, 1985]

An Act for securing additional protection for Judges and other acting judicially and for matters connected therewith.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and extent.*—This Act may be called the Judges (Protection) Act, 1985.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definition.*—In this Act “Judge” means not only every person who is officially designated as a Judge, but also every person—

(a) who is empowered by law to give in any legal proceeding a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive; or

(b) who is one of a body of persons which body of persons is empowered by law to give such a judgment as is referred to in clause (a).

3. *Additional Protection to Judges.*—(1) Notwithstanding anything contained in any other law for the time being in force and subject to the

provisions of sub-section (2), no court shall entertain or continue any civil or criminal proceeding against any person who is or was a Judge for any act, thing or word committed done spoken by him when, or in the course of, acting or purporting to act in the discharge of his official or judicial duty or function.

(2) Nothing in sub-section (1) shall debar or affect in any manner the power of the Central Government or the State Government or the Supreme Court of India or any High Court or any other authority under any law for the time being in force to take such action (whether by way of civil, criminal, or departmental proceedings or otherwise) against any person who is or was a Judge.

4. *Saving.*—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force providing for protection of Judges.

THE PUNJAB APPROPRIATION (NO. 3) ACT, 1985

The following Act of Parliament received the assent of the President on 6th August, 1985 and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 54, dated 7th August, 1985.

INDIAN PARLIAMENT ACT NO 41 OF 1985

[7th August, 1985]
An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1985-86.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Punjab Appropriation (No. 3) Act, 1985.

(Text Omitted)

THE APPROPRIATION (NO. 5) ACT, 1985

The following Act of Parliament received the assent of the President on the 19th August, 1985, and was published in the *Gazette of India* (Ext.), Part II, Section 1, No. 55, dated August 19, 1984.

INDIAN PARLIAMENT ACT NO. 42 OF 1985

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of of the financial year 1985-86.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Appropriation (No 5) Act, 1985.

(Text omitted)

THE CRIMINAL LAW AMENDMENT (AMENDING ACT, 1985

The following Act of Parliament received the assent of the President on the 21st August, 1985, and was published in the *Gazette of India* (Ext.), Part II, Section 1, No. 57, dated August 22, 1985.

INDIAN PARLIAMENT NO. 44 OF 1985

[21st August, 1985]

An Act further to amend the Criminal Law Amendment Act, 1952

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Criminal Law Amendment (Amending) Act, 1985.**

2. *Amendment of section 11.*—In sub-section (1) of section 11 of the Criminal Law Amendment Act, 1952 (46 of 1952), after the words “air force law”, the brackets, words and figures “(including the Border Security Force Act, 1968) (47 of 1968)” shall be added.

THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President on the 29th August, 1985, and was published in the *Gazette of India (Ext)*, Part II, Section 1, No. 59, dated August 29, 1985.

INDIAN PARLIAMENT ACT NO. 46 OF 1985

[29th August, 1985]

An Act to amend the Terrorist and Disruptive Activities (Prevention) Act, 1985.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Terrorist and Disruptive Activities (Prevention) Amendment Act, 1985.**

(2) It shall be deemed to have come into force on the 5th day of June, 1985.

2. *Application to Jammu and Kashmir and amendment of Act 31 of 1985.*—

(1) The Terrorist and Disruptive Activities (Prevention) Act, 1985 (hereinafter referred to as the principal Act), to the extent it is not applicable immediately before the commencement of this Act to the State of Jammu and Kashmir, is hereby applied to that State.

(2) In sub-section (2) of section 1 of the principal Act, the proviso shall be omitted.

3. *Repeal and saving*—(1) The Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1985 (4 of 1985), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE INDIAN RAILWAYS (AMENDMENT) ACT, 1985

The following Act of Parliament received the assent of the President on the 2nd September, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 60, dated September 3, 1985.

INDIAN PARLIAMENT ACT NO. 47 OF 1985

[2nd September, 1985]

An Act further to amend the Indian Railways Act 1890

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Indian Railways (Amendment) Act, 8985.**

2. *Amendment of section 100B of Act 9 of 1890.*—In section 100B of the Indian Railway Act, 1890,—

(i) for the words “five hundred rupees”, the words “two thousand rupees” shall be substituted ;

(ii) the following proviso shall be inserted at the end, namely :—

“Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a railway servant or any other person without authority in this behalf causes to be obstructed any train by tampering with, disconnecting or otherwise interfering in any other manner with its hose-pipe, he shall be punishable with imprisonment for a term which shall not be less than six months and with fine which shall not be less than five hundred rupees :

Provided further that where a railway servant or any other person without authority in this behalf, obstructs or causes to obstruct any train or rail car carrying passengers or any goods train by squatting, picketing or during a *Rail Roko* agitation or *Bandh* or by alarm chain pulling or tampering with signal gear or otherwise, he shall be punishable with imprisonment for a term which shall not be less than three months (ninety days) or with fine which shall not be less than one thousand rupees.”

THE COFFEE (AMENDMENT) ACT, 1985

The following Act of Parliament received the assent of the President on the 2nd September, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 61, dated September 3, 1985,

INDIAN PARLIAMENT ACT NO. 48 OF 1985

[2nd September, 1985.]

An Act further to amend the Coffee Act, 1942.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Coffee (Amendment) Act, 1985.**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, specify.

2. *Amendment of section 11.*—In the Coffee Act, 1942 (7 of 1942), (hereinafter referred to as the principal Act), in section 11 for the words “eleven rupees and eighty naye paise”, the words “fifty rupees” shall be substituted.

3. *Amendment of section 12.*—In section 12 of the principal Act, for the words “eleven rupees and eighty naye paise”, the words “fifty rupees” shall be substituted.

4. *Amendment of section 13.*—In section 13 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) The provisions of the Customs Act, 1962 (52 of 1962), and the rules and regulations made thereunder, shall as may be, apply in relation to,—

(a) the refund of the duty of customs where coffee is exported and subsequently imported into India; and

(b) the export, without payment of the duty of customs, of coffee which is subsequently to be imported into India ”.

5. *Amendment of section 48.*—In section 48 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

THE ESSENTIAL SERVICES MAINTENANCE (AMENDMENT) ACT, 1985.

The following Act of Parliament received the assent of the President on the 2nd September, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 62, dated September 3, 1985.

INDIAN PARLIAMENT ACT NO. 49 OF 1985.

An Act to amend the Essential Services Maintenance Act, 1981.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the **Essential Services Maintenance (Amendment) Act, 1985**.

2. *Amendment of section 1 of Act 1981.*—In the Essential Services Maintenance Act, 1981, in sub-section (4) of section 1, for the words “four years”, the word “nine years” shall be substituted.

THE AUROVILLE (EMERGENCY PROVISIONS) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President on the 2nd September, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 64, dated September 3, 1985.

INDIAN PARLIAMENT ACT NO. 51 OF 1985

An Act to amend the Auroville (Emergency Provision) Act, 1980.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the **Auroville (Emergency Provision) Amendment Act, 1985**.

2. *Amendment of section 3.*—In section 3 of the Auroville (Emergency Provisions) Act 1980, (59 of 1980.) in sub-section (1), in the proviso, for the words “five years”, the words “seven years,, shall be substituted.

THE ESTATE DUTY (AMENDMENT) ACT, 1985

The following Act of Parliament received the assent of the President on the 2nd September, 1985, and was in the *Gazette of India*, (Ext.), Part II, Section 1, No. 65, dated 3rd September, 1985.

INDIAN PARLIAMENT ACT NO. 52 OF 1985.

[3rd September, 1985]

An Act further to amend the Estate Duty Act, 1953.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the **Estate Duty (Amendment) Act, 1985.**

(2) It shall be deemed to have come into force on the 16th day of March, 1985.

2. *Insertion of new section 5C in Act 45 of 1953.*—In this Estate Duty Act, 1953, after section 5B, the following section shall be inserted, namely:—

“5C *Discontinuance of levy of estate duty.*—Notwithstanding anything contained in section 5, this Act shall cease to apply to the levy of estate duty in respect of any property (other than agricultural land) which passes on the death of a person on or after the 16th day of March, 1985.”

THE COAL MINES (CONSERVATION AND DEVELOPMENT) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President on the 4th September, 1985, and was published in the *Gazette of India*, (Ext.) Part, II, Section 1, No. 68, dated 4th September, 1985.

INDIAN PARLIAMENT ACT NO. 55 OF 1985

[4th September, 1985]

An Act further to amend the Coal Mines (Conservation and Development) Act, 1974.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(2) This Act may be called the **Coal Mines (Conservation and Development) Amendment Act, 1985.**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 4.*—In section 4 of the Coal Mines (Conservation and Development) Act, 1974 (28 of 1974) (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Central Government may, if it is satisfied after consideration of all the facts and circumstances that the recovery of the cost of measures, if any, undertaken by it under sub-section (1) or sub-section (2) in relation to a coal mine is justified, recover such cost from the owner, agent or manager of the coal mine, either wholly or partly, in the same manner as an arrear of land revenue.”

3. *Amendment of section 8.*—Section 8 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Where any duty of excise referred to in sub-section (1) cannot be collected in the manner prescribed under that sub-section, it shall be recovered from the owner of the coal mine in the same manner as an arrear of land revenue."

THE GOVERNMENT SAVINGS LAWS (AMENDMENT) ACT, 1985

The following Act of Parliament received the assent of the President on the 4th September, 1985, and was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 69, dated September 4, 1985.

INDIAN PARLIAMENT ACT NO. 56 OF 1985

An Act further to amend the Government Savings Banks Act, 1873 and the Government Savings Certificates Act, 1959.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the **Government Savings Laws (Amendment) Act, 1985**.

2. *Amendment of Act 5 of 1873*—In the Government Savings Banks Act, 1873,—

(a) in sub-section (4) of section 4A,—

(i) in clause (a), for the words "five thousand rupees", the words "such limit as may be prescribed" shall be substituted;

(ii) in clause (b), for the words "aforesaid limit of five thousand rupees", the words, brackets and letter "limit prescribed under clause (a)" shall be substituted;

(b) in sub-section (2) of section 15, after clause (h), the following clause shall be inserted namely:—

"(i) the limit under clause (a) of sub-section (4) of section 4A."

3. *Amendment of Act 46 of 1959.*—In the Government Savings Certificates Act, 1959,—

(a) in sub-section (4) of section 7, for the words "five thousand rupees", the words "such limit as may be prescribed" shall be substituted;

(b) in sub-section (2) of section 12, after clause (i), the following clause shall be inserted, namely:—

"(ia) the limit under sub-section (4) of section 7;"

THE INTELLIGENCE ORGANISATIONS (RESTRICTION OF RIGHTS) ACT, 1985

The following Act of Parliament received the assent of the President on the 6th September, 1985, and was published in the *Gazette of India*, (Ext.), Part II, Section 1 No. 71, dated 6th September, 1985.

INDIAN PARLIAMENT ACT NO. 58 OF 1985

[6th September, 1985]

An Act to provide for the restriction of certain rights conferred by Part III of the Constitution in their application to the members of certain organisations established by the Central Government for purposes of intelligence or counter-intelligence so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the **Intelligence Organisations (Restriction of Rights) Act, 1985.**

(2) It extends to the whole of India.

(3) it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Intelligence Organisation” means any organisation established by the Central Government for purposes of intelligence or counter intelligence and specified in the Schedule;

(b) “member of an Intelligence Organisation” means any person appointed to, or employed in, any Intelligence Organisation;

(c) “prescribed” means prescribed by rules made under this Act.

3. *Restrictions respecting right to form association, freedom of speech etc.*—(1) No member of an Intelligence Organisation shall,—

(a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade union, labour unions or political association; or

(b) be a member of, or be associated in any way with, or raise funds for, or hold office in, or function in any other manner for, any other society, institution, association or organisation that is not recognised by the Central Government as part of the Intelligence Organisation of which he is a member or is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter, pamphlet, poster or other document except with the prior permission of the head of the Intelligence Organisation; or

(d) except for purposes of official duty, contact, or communicate with any person on any matter relating to functioning, structure, personnel or organisation affairs of the Intelligence Organisation of which he is a member;

(e) use the name of the Intelligence Organisation of which he is a member for purposes not authorised by the head of the Intelligence Organisation or in any other manner except for purposes relating to the official work and functioning of the Organisation itself.

Explanation.—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No member of an Intelligence Organisation shall be participate in, or address, any meeting or take part in any demonstration organised by any body of a persons for any political purposes or such other purposes as may be prescribed.

4. *Penalty.*—Any person who contravenes any of the provisions of section 3 shall, without prejudice to any other action that may be taken against him, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

5. *Offences to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences punishable under section 4 shall be cognizable.

6. *Power to amend Schedule.*—(1) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other organisation established by the Central Government for purposes of intelligence or counter-intelligence or by omitting therefrom any organisation already specified therein and on the publication of the notification, such organisation shall be deemed to be specified in, or, as the case may be, omitted from the Schedule.

(2) A copy of every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each house of Parliament.

7. *Power to make rules*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(a) and section 6(1)]

1. The Intelligence Bureau.
2. The Research and Analysis Wing.

THE SECURITIES CONTRACTS (REGULATION) AMENDMENT ACT, 1985

The following Act of Parliament received the assent of the President on the 1st June, 1985, and was published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 48, dated June, 1 1985.

INDIAN PARLIAMENT ACT NO. 40 OF 1985

[1st June, 1985]

An Act further to amend the Securities Contracts (Regulation) Act, 1956.

Be it enacted, by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Securities Contracts (Regulation) Amendment Act, 1985.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new section 22A.*—In the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereinafter referred to as the principal Act), after section 22, the following section shall be inserted, namely :—

‘22A. Free transferability and registration of transfers of listed securities of companies.—(1) In this section, unless the context otherwise requires,—

(a) “company” means a company whose securities are listed on a recognised stock exchange ;

(b) “security” means security of a company, being a security listed on a recognised stock exchange but not being a security which is not fully paid up or on which the company has a lien ;

(c) all other words and expressions used in this section and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) shall have the same meanings as are assigned to them in that Act.

(2) Subject to the provisions of this section, securities of companies shall be freely transferable

(3) Notwithstanding anything contained in its articles or in section 82 or section 111 of the Companies Act 1956 (1 of 1956), but subject to the other provisions of this section, a company may refuse to register the transfer of any of its securities in the name of the transferee on any one or more of the following grounds and on no other ground, namely :—

(a) that the instrument of transfer is not proper or has not been duly stamped and executed or that the certificate relating to the security has not been delivered to the company or that any other requirement under the law relating to registration of such transfer has not been complied with ;

(b) that the transfer of the security is in contravention of any law ;

(c) that the transfer of the security is likely to result in such change in the composition of the Board of Directors as would be prejudicial to the interests of the company or to the public interest ;

(d) that the transfer of the security is prohibited by any order of any court, tribunal or other authority under any law for the time being in force.

(4) A company shall, before the expiry of two months from the date on which the instrument of transfer of any of its securities is lodged with it for the purposes of registration of such transfer, not only form, in good faith, its opinion as to whether such registration ought not or ought to be refused on any of the grounds mentioned in sub-section (3) but also—

(a) if it has formed the opinion that such registration ought not to be so refused, effect such registration ;

(b) if it has formed the opinion that such registration ought to be refused on the ground mentioned in clause (a) of sub-section (3), intimate the transferor and the transferee by notice in the prescribed form about the requirements under the law which has or which have to be complied with for securing such registration ; and

(c) in any other case, make a reference to the Company Law Board and forward copies of such reference to the transferor and the transferee.

(5) Every reference under clause (c) of sub-section (4), shall be in the prescribed form and contain the prescribed particulars and shall be accompanied by the Instrument of transfer of the securities to which it relates, the documentary evidence, if any, furnished to the company along with the instrument of transfer, and evidence of such other nature and such fees as may be prescribed.

(6) On receipt of a reference under sub-section (4), the Company Law Board shall, after causing reasonable notice to be given to the company and also to the transferor and the transferee concerned and giving them a reasonable opportunity to make their representations, if any, in writing by order direct either that the transfer shall be registered by the company or that it need not be registered by it.

(7) Where on a reference under sub-section (4) the Company Law Board directs that the transfer of the securities to which it relates—

(a) shall be registered by the company, the company shall give effect to the direction within ten days of the receipt of the order as if it were an order made on appeal by the Company Law Board in exercise of the powers under section 111 of the Companies Act, 1956 (1 of 1956);

(b) need not be registered by the company, the company shall, within ten days from the date of such direction, intimate the transferor and the transferee accordingly.

(8) If default is made in complying with the provisions of this section, the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees.

(9) If in any reference made under clause (c) of sub-section (4) of this section, any person makes any statement—

(a) which is false in any material particular, knowing it to be false; or

(b) which omits any material fact knowing it to be material, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(10) For the removal of doubts, it is hereby provided that nothing in this section shall apply in relation to any securities the instrument of transfer in respect whereof has been lodged with the company before the commencement of the Securities Contracts (Regulation) Amendment Act, 1985.

3. *Amendment of section 24.*—In section 24 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A”.

4. *Amendment of section 30.*—In section 30 of the principal Act, in sub-section (2),—

(a) in clause (h), the word “and” occurring at the end shall be omitted;

(b) after clause (h), the following clause shall be inserted, namely:—

“(ba) the form in which a notice referred to in sub-clause (b) of sub-section (4) of section 22A shall be, the particulars which such notice shall contain, the form in which a reference under clause (c) of the said sub-section (4) shall be, the particulars which such reference shall contain, and the evidence and the fees which shall accompany such reference; and”.

THE COMPANIES (AMENDMENT) ACT, 1985

The following Act of Parliament received the assent of the President on the 24th May, 1985 and was published in the *Gazette of India (Extraordinary)*; Part II, Section 1, No. 42, dated May 25, 1985.

INDIAN PARLIAMENT ACT NO. 35 OF 1985

[24th May, 1985]

An Act further to amend the Companies Act, 1956.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Companies (Amendment) Act, 1985.

2. *Substitution of new section for section 293A.*—In the Companies Act, 1956 (1 of 1956) (hereinafter referred to as the principal Act), for section 293A, the following shall be substituted, namely :—

“Political contributions

293A. *Prohibitions and restrictions regarding political contributions.*—

(1) Notwithstanding anything contained in any other provision of this Act,—

(a) no Government company ; and

(b) no other company which has been in existence for less than three financial years,

shall contribute any amount or amounts, directly or indirectly,—

(i) to any political party ; or

(ii) for any political purpose to any person.

(2) A company, not being a company referred to in clause (a) or clause (b) of sub section (1), may contribute any amount or amounts, directly or indirectly,—

(a) to any political party, or

(b) for any political purpose to any person :

Provided that the amount or, as the case may be, the aggregate of the amounts which may be so contributed by a company in any financial year shall not exceed five per cent, of its average net profits determined in accordance with the provisions of sections 349 and 350 during the three immediately preceding financial years.

Explanation—Where a portion of a financial year of the company falls before the commencement of the Companies (Amendment) Act, 1985, and a portion falls after such commencement, the latter portion shall be deemed to be a financial year within the meaning, and for the purposes, of this sub-section :

Provided further that no such contribution shall be made by a company unless a resolution authorising the making of such contribution is passed at a meeting of the Board of Directors and such resolution shall, subject to the other provisions of this section, be deemed to be justification in law for the making and the acceptance of the contribution authorised by it.

(3) Without prejudice to the generality of the provisions of sub-sections (1) and (2),—

(a) a donation or subscription or payment caused to be given by a company on its behalf or on its account to a person who, to its knowledge is carrying on any activity which, at the time at which such donation or subscription or payment was given or made, can reasonably be regarded as likely to effect public support for a political party shall also be deemed to be contribution of the amount of such donation, subscription or payment to such person for a political purpose ;

(b) the amount of expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the

nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed,—

(i) where such publication is by or on behalf of a political party, to be a contribution of such amount to such political party, and

(ii) where such publication is not by or on behalf of but for the advantage of a political party, to be a contribution for a political purpose to the person publishing it.

(4) Every company shall disclose in its profit and loss account any amount or amounts contributed by it to any political party or for any political purpose to any person during the financial year to which that account relates, giving particulars of the total amount contributed and the name of the party or person to which or to whom such amount has been contributed.

(5) If a company makes any contribution in contravention of the provisions of this section,—

(a) the company shall be punishable with fine which may extend to three times the amount so contributed; and

(b) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.”

3. *Amendment of section 396.*—In section 396 of the principal Act,—

(a) in sub-section (2), for the words “The order aforesaid may”, the words “The order aforesaid may provide for the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company and may also” shall be substituted;

(b) in sub-section (3), for the words “as may be prescribed”, the words “as may be prescribed and every such assessment shall be published in the Official Gazette” shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Any person aggrieved by any assessment of compensation made by the prescribed authority under sub-section (3) may, within thirty days from the date of publication of such assessment in the Official Gazette, prefer an appeal to the Company Law Board and thereupon the assessment of the compensation shall be made by the Company Law Board.”

(d) in sub-section (4),—

(i) in clause (a), the word “and”, occurring at the end, shall be omitted;

(ii) after clause (a), the following clause shall be inserted, namely:—

“(aa) the time for preferring an appeal under sub-section (3A) has expired, or where any such appeal has been preferred, the appeal has been finally disposed of; and”.

4. *Amendment of section 529.*—In section 529 of the principal Act,—

(a) in sub-section (1), the following proviso shall be inserted at the end, namely:—

“Provided that the security of every secured creditor shall be deemed to be subject to a *pari passu* charge in favour of the workmen to the extent of the workmen's portion therein, and, where a secured creditor, instead of relinquishing his security and proving his debts, opts to realise his security,—

(a) the liquidator shall be entitled to represent the workmen and

enforce such charge;

(b) any amount realised by the liquidator by way of enforcement of such charge shall be applied rateably for the discharge of workmen's dues; and

(c) so much of the debt due to such secured creditor as could not be realised by him by virtue of the foregoing provisions of this proviso or the amount of the workmen's portion in his security, whichever is less, shall rank *pari passu* with the workmen's dues for the purposes of section 529A.”;

(b) in sub-section (2),—

(i) in the proviso, for the words “pay the expenses”, the words “pay his portion of the expenses” shall be substituted;

(ii) after the proviso, the following Explanation shall be inserted, namely :—

“*Explanation.*—For the purposes of this proviso, the portion of expenses incurred by the liquidator for the preservation of a security which the secured creditor shall be liable to pay shall be the whole of the expenses less an amount which bears to such expenses the same proportion as the workmen's portion in relation to the security bears to the value of the security.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) For the purposes of this section, section 529A and section 530,—

(a) “workmen”, in relation to a company, means the employees of the company, being workmen within the meaning of the Industrial Disputes Act, 1947 (14 of 1947);

(b) “workmen's dues”, in relation to a company, means the aggregate of the following sums due from the company to its workmen namely:—

(i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman, in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947 (14 of 1947);

(ii) all accrued holiday remuneration becoming payable to any workman, or in the case of his death to any other person in his right, on the termination of his employment before, or by the effect of, the winding up order or resolution;

(iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923 (8 of 1923), rights capable of being transferred to and vested in the workman, all amounts due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;

(iv) all sums due to any workman from a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the workmen, maintained by the company;

(c) "workmen's portion", in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of—

- (i) the amount of workmen's dues ; and
- (ii) the amounts of the debts due to the secured creditors.

Illustration

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen's dues and of the amounts of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is therefore, one-fourth of the value of the security, that is Rs. 25,000".

5. *Insertion of new section 529 A.*—After section 529 of the principal Act, the following section shall be inserted, namely :—

"529A. *Overriding preferential payments.*—(1) Notwithstanding anything contained in any other provision of this Act or any other law for the time being in force, in the winding up of a company—

- (a) workmen's dues ; and
- (b) debts due to secured creditors to the extent such debts rank under clause (c) of the proviso to sub-section (1) of section 529 *pari passu* with such dues,

shall be paid in priority to all other debts.

(2) The debts payable under clause (a) and clause (b) of sub-section (1) shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions".

6. *Amendment of section 530.*—In section 530 of the principal Act,—

- (a) in sub-section (1),—
 - (i) in the opening portion, for the words "there shall be paid", the words, figures and letter "subject to the provisions of section 529A, there shall be paid" shall be substituted ;
 - (ii) in clause (b), the words, figures and letter "and any compensation payable to any workman under any of the provisions of Chapter VA of the Industrial Disputes Act, 1947 (14 of 1947)" shall be omitted ;
- (b) in sub-section (2), the proviso shall be omitted ;
- (c) in sub-section (8),—
 - (i) in clause (b), the word "and" occurring at the end shall be omitted ;
 - (ii) after clause (b), the following clause shall be inserted, namely :—

(bb) the expression "employee" does not include a workman ; and.

THE PAYMENT OF BONUS (AMENDMENT) ACT, 1985

The following Act of Parliament received the assent of the president on the 22nd May, 1985, and was published in the *Gazette of India*, (Extra.) Part II, Section 1, No. 37, dated 22nd May, 1985.

INDIAN PARLIAMENT ACT NO. 30 OF 1985

[22nd May, 1985]

An Act further to amend the Payment of Bonus Act, 1965.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Payment of Bonus (Amendment) Act, 1985.

2. *Omission of section 12.*—Section 12 of the Payment of Bonus Act, 1965 (21 of 1965) shall be omitted.

THE TOBACCO BOARD (AMENDMENT) ACT, 1985

The following Act of Parliament received the assent of the President on 6th September, 1985. and was published in the *Gazette of India, Extraordinary*, Part II, Section 1, No. 70, dated 6th September, 1985.

INDIAN PARLIAMENT ACT NO. 57 OF 1985

[6th September, 1985]

An Act further to amend the Tobacco Board Act, 1975.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement*—(1) This Act may be called the Tobacco Board (Amendment) Act, 1985.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 4.*—In section 4 of the Tobacco Board Act, 1975 (4 of 1975) (hereinafter referred to as the principal Act),—

(a) in sub-section (4),—

(1) in clause (c),—

(i) for the words “eight members”, the words “ten members” shall be substituted; and

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that the number of members appointed under this clause from amongst the growers of tobacco shall not exceed six.”;

(2) after clause (c), the following clauses shall be inserted, namely:—

“(f) the Agricultural Marketing Adviser to the Government of India, Department of Rural Development, *ex officio*;

“(g) the Executive Director, *ex officio*.”;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) It is hereby declared that the office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.”;

(c) in sub-section (7), for the words “The Executive Director and any such officer”, the words “Any officer” shall be substituted.

3. *Amendment of section 8.*—In section 8 of the principal Act, in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

“(a) regulating the production and curing of virginia tobacco having regard to the following factors, namely:—

(i) the demand for virginia tobacco in India and abroad;

(ii) the suitability of land for growing virginia tobacco;

(iii) the differences in soil characteristics and agro-climatic factors in different regions of the country where virginia tobacco is grown and the effect thereof on the quality and quantity of virginia tobacco produced in those regions;”

(iv) the marketability of different types of virginia tobacco;
(v) the need for rotation of crops; and
(vi) the nature of the holdings of the growers of virginia tobacco whether owned or leased;”.

4. *Insertion of new section 10A.*—After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. *Registration of growers of virginia tobacco seedlings for commercial purposes.*—(1) No person shall grow virginia tobacco seedlings for commercial purposes unless he registers himself as a nursery grower with the Board in accordance with the rules made under this Act.

Explanation.—For the removal of doubts, it is hereby declared that nothing in this sub-section shall apply to the growing by a registered grower of any virginia tobacco seedlings for his own use.

(2) No registered nursery grower shall sell or cause to be sold any virginia tobacco seedlings grown by him to any person other than a registered grower.”.

5. *Insertion of new section 11A and 11B.*—After section 11 of the principal Act, the following sections shall be inserted, namely:—

“11A. *Registration of processors and manufacturers of virginia tobacco, etc.*—No person shall process virginia tobacco or manufacture products therefrom unless he registers himself as such processor or manufacturer, as the case may be, with the Board in accordance with the rules made under this Act.

11B. *Licences to be obtained for grading work and construction of barns, etc.*—No person shall—

(i) take up grading work relating to virginia tobacco for commercial purposes; or

(ii) take up the construction and operation of a barn, unless he obtains a licence from the Board in accordance with the rules made under this Act.

Explanation.—For the purposes of this section,—

(i) “barn” means a building or structure with a roof of zinc sheets or tiles having flue pipes, furnace and tiers used for flue curing of tobacco leaves;

(ii) “grading work” means separating tobacco leaves into specific grades on the basis of plant position, maturity, colour, body and blemish and in accordance with such specifications as may be prescribed.”.

6. *Insertion of new sections 13A and 13B.*—After section 13 of the principal Act, the following sections shall be inserted, namely:—

“13A. *Duty of registered dealers and exporters to purchase at auction platforms, etc.*—No registered dealer or registered exporter shall purchase or cause to be purchased virginia tobacco elsewhere—

(a) than at an auction platform registered with the Board in accordance with the rules made under this Act or established by the Board under this Act; or

(b) than from any other registered dealer or a registered grower or curer.

Provided that in relation to any State in which the provisions of section 13 are not in force, the condition specified under clause (a) shall not apply.

13B. *Duty of buyers of virginia Tobacco at places other than auction*

platforms to refrain from certain unfair practices.—Every dealer who purchases virginia tobacco in any State in which the provisions of section 13 are in force, —

(a) shall pay the full price for the whole quantity of virginia tobacco so purchased by him at the rate at which he agreed to purchase such tobacco and shall refrain from claiming any discount in the weight or other deductions in weight thereof or any deductions from the price as calculated in accordance with such rate;

(b) shall pay the full price for virginia tobacco so purchased by him as calculated in accordance with the provisions of clause (a) as expeditiously as possible and in any case within such reasonable time as may be specified in this behalf by the Board; and

(c) shall refrain from having recourse to any practices which the Board may, having regard to the need for protection of persons selling virginia tobacco in such State and all other relevant considerations, specify to be unfair practices.”

7. *Amendment of section 14.*—In section 14, of the principal Act,—

(i) for the words and figures “for registration of curers for the purposes of section 11”, the words, figures and letters “for registration of nursery growers for the purposes of section 10A, for registration of curers for the purposes of section 11, for registration of processors and manufacturers for the purposes of section 11A, for obtaining licences for taking up grading work or construction and operation of barns under section 11B” shall be substituted;

(ii) for the portion beginning with the words, “the registration as curers” and ending with the words “as may be prescribed”, the following shall be substituted, namely:—

“the registration as nursery growers, curers, processors, exporters, packers or auctioneers of, or dealers in, virginia tobacco or as manufacturers of the products of virginia tobacco or in granting licences under section 11B, the returns to be submitted and the registers to be maintained by registered growers, nursery growers, curers, processors, exporters, packers or auctioneers of, or dealers in, virginia tobacco or the registered manufacturers of the products of virginia tobacco or the persons licensed under section 11B and the registers to be kept by the Board shall be such as may be prescribed”.

8. *Insertion of new section 18A.*—After section 18 of the principal Act, the following section shall be inserted, namely:—

“18A. *Writing off of losses.*—Subject to such conditions as may be specified by the Central Government, where the Board is of opinion that any amount due to, or any loss, whether of money or of property, incurred by, the Board is irrecoverable, the Board may, with the previous approval of the Central Government, sanction the writing off finally of the said amount or loss:

Provided that no such approval of the Central Government shall be necessary where such irrecoverable amount or loss does not exceed in any individual case and in the aggregate in any year such amounts as may be prescribed.”

9. *Amendment of section 19.*—In section 19 of the principal Act, in subsection (1), for the words “profit and loss account”, the words “income and expenditure account” shall be substituted.

10.—*Insertion of new section 20A.*—After section 20 of the principal Act, the following section shall be inserted, namely :—

“20A. *Power of Central Government to authorise purchase of virginia tobacco.*—Without prejudice to the provisions of clause (g) of sub-section (2) of section 8 and notwithstanding anything contained in any other provision of this Act, if the Central Government is satisfied that it is necessary or expedient so to do, it may, by order in writing and subject to such conditions and limitations as may be specified in the order, authorise any body or other agency to purchase virginia tobacco from the growers and dispose of the same in India or abroad.”

11. *Amendment of section 25.*—In section 25 of the principal Act,—

(a) for the words “or of any rules made thereunder”, the words “or of any rules or regulations made thereunder” shall be substituted ;

(b) for the words “extend to six months, or with fine which may extend to one thousand rupees, or with both” the words “extend to two years, or with fine which may extend to five thousand rupees, or with both” shall be substituted.

12. *Amendment of section 32.*—In section 32 of the principal Act, in sub-section (2),—

(a) after clause (g), the following clause shall be inserted, namely :—

“(ga) the specifications with regard to grading work referred to in section 11B”.

(b) after clause (j), the following clause shall be inserted, namely :—

“(ja) the amount for the purposes of the proviso to section 18A”.

13. *Amendment of section 33* —In section 33 of the principal Act,—

(a) in sub-section (2), after clause (h), the following clause shall be inserted, namely :—

“(i) the time within which full price for virginia tobacco shall be paid under clause (b), and the unfair practices for the purpose of clause (c), of section 13B”.

(b) after sub-section (4), the following sub-section shall be inserted, namely :—

“(5) Every regulation made under this section shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”

THE TEA COMPANIES (ACQUISITION AND TRANSFER OF SICK TEA UNITS) ACT, 1985

The following Act of Parliament received the assent of the President on the 28th May, 1985, and was published in the *Gazette of India*, Ex-

traordinary), Part II, Section 1, No. 44 dated May 29, 1985.

INDIAN PARLIAMENT ACT NO. 37 OF 1985.

[28th May, 1985]

An Act to provide for the acquisition and transfer of the sick tea units specified in the First Schedule and the right, title and interest of the tea companies in respect of the said tea units with a view to securing proper reorganisation and management of such tea units so as to subserve the interests of the general public by augmenting the production and manufacture of different varieties of tea which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto,

Where as the sick tea units specified in the First Schdedule had been engaged in the production and manufacture of different varieties of tea ;

And whereas the management of the said tea units was taken over by the Central Government under Tea Act, 1953 (29 of 1953) ;

And whereas the Central Government had invested large sums of money with a view to making the said tea units viable ;

And whereas further investment of large sums of money is necessary for reorganising and rehabilitating the said tea units ;

And whereas the acquisition by the Central Government of the said tea units is necessary to enable it to invest such large sums of money and to protect the large investments already made and also the interests of the workmen employed therein by proper reorganisation and management of the said tea units and thereby to augment the production and manufacture of different varieties of tea which are essential to the needs of the economy of the country ;

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the **Companies (Acquisition and Transfer of Sick Tea Units) Act, 1985.**

(2) It shall be deemed to have come into force on the 8th day of April, 1985.

(Text of the Act omitted)

THE END

PART III

PRESIDENT'S

ORDINANCES, REGULATIONS & ACTS

1985

Published in the *Gazette of India (Ext)*. Part II, Section 1, No. 85,
dated September 17, 1984

THE GENERAL INSURANCE BUSINESS (NATIONALISATION) AMENDMENT ORDINANCE, 1984

ORDINANCE NO. 10 OF 1984

Promulgated by the President in the Thirty-fifth Year of the Republic of India.

An Ordinance further to amend the General Insurance Business (Nationalisation) Act, 1972.

Whereas for securing the interests of the General Insurance Corporation of India and of the acquiring companies and of their policy holders and to control the cost of administration; it is necessary that further rationalisation or revision of pay scales and other terms and conditions of service applicable to the officers and other employees of the Corporation and of the acquiring companies should be undertaken expeditiously;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called, the General Insurance Business (Nationalisation) Amendment Ordinance, 1984.

(2) It shall come into force at once.

2. *Amendment of clause (o) of section 3.*—In section 3 of the General Insurance Business (Nationalisation) Act, 1972 (hereinafter referred to as the principal Act), in clause (o), after the words and figures “framed under section 16”, the words, figures and letter “and also includes a scheme framed under section 17A” shall be inserted.

3. *Amendment of section 16.*—In section 16 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) The power to frame a scheme under sub-section (1), and the power conferred by sub-section (6) to add to, amend or vary any scheme framed under this section, shall include the power to frame such scheme with retrospective effect from a date not earlier than the appointed day”.

4. *Insertion of new Chapter VA.*—In the principal Act, after Chapter V, the following Chapter shall be inserted, namely :—

"CHAPTER VA

Terms and Conditions of Service of Officers and other Employees

17A. *Power of Central Government to regulate the terms and conditions of service of officers and other employees.*—(1) The Central Government may, by notification in the Official Gazette, frame one or more scheme for regulating the pay scales and other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company.

(2) A scheme framed under sub-section (1) may add to, amend or vary any scheme framed under section 16 [including any addition, amendment or variation made therein by notification under sub-section (6) of section 16] with respect to rationalisation or revision of pay scales and other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company, to provide for further rationalisation or revision of such pay scales and other terms and conditions of service notwithstanding that such further rationalisation or revision is unrelated to, or unconnected with, the amalgamation of insurance companies or merger consequent on nationalisation of general insurance business.

(3) The Central Government may, by notification, add to, amend or vary any scheme framed under this section.

(4) The power to frame a scheme under sub-section (1), and the power conferred by sub-section (3) to add to, amend or vary any scheme framed under this section, shall include the power to frame such scheme, or as the case may be, to make such addition, amendment or variation in any scheme framed under this section, with retrospective effect from a date not earlier than the appointed day.

(5) A copy of every scheme, and every amendment thereto, framed under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

(6) The provisions of this section and of any scheme framed under it shall have effect notwithstanding anything to the contrary contained in any other law, or any agreement, award or other instrument for the time being in force."

5. *Validation.*—(1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or in any other law, agreement, award or other instrument for the time being in force, every scheme framed or purporting to have been framed with retrospective effect under sub-section (1) of section 16 of the principal Act and every notification made or purporting to have been made with retrospective effect under sub-section (6) of that section before the commencement of the General Insurance Business (Nationalisation) Amendment Ordinance, 1984 shall be, and shall be deemed always to have been for all purposes, as valid and effective as if the amendment made in the said section 16 by section 3 of this Ordinance had been part of that section and had been in force at all material times.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or in any other law, agreement, award or other instrument for the time being in force,—

(a) every scheme framed, or purporting to have been framed, by the Central Government under sub-section (1) of section 16 of the principal Act; and

(b) every notification made, or purporting to have been made, by the Central Government under sub-section (6) of the said section 16, before the commencement of the General Insurance Business (Nationalisation) Amendment Ordinance, 1984, in so far as such scheme or notification provides (whether with or without retrospective effect) for any rationalisation or revision of pay scales or other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company, otherwise than in relation to, or in connection with, amalgamation of insurance companies or merger consequent on nationalisation of general insurance business shall be, and shall be deemed always to have been, for all purposes, as valid and effective as if section 17A, as inserted in the principal Act by section 4, of this Ordinance had been part of the principal Act, and had been in force at all material times and such schemes or notification in so far as it provides as aforesaid had been framed or made under the said section 17A:

Provided that nothing in this section shall apply to, or in relation to, the notification dated the 30th day of September, 1980, framing the General Insurance (Nationalisation and Revision of Pay Scales and other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980.

Explanations.—In this section, the expressions “acquiring company” and “Corporation” shall have the meanings respectively assigned to them in the principal Act.

ZAIL SINGH,
President.

THE PUNJAB PANCHAYAT SAMITIS AND ZILA PARISHADS (TEMPORARY SUPERSESSION) AMENDMENT ACT, 1984

The following President's Act was Published in the *Gazette of India*, (Extl). Part II, Section 1, No. 58, dated 11th October 1984

PRESIDENT'S ACT NO. 3 OF 1984

Enacted by the President in the Thirty-fifth Year of the Republic of India.

An Act further to amend the Punjab Panchayat Samitis and Zila Parishads (Temporary Supersession) Act, 1978.

In exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1984 (36 of 1984), the President is pleased to enact as follows:

1. *Short title.*—This Act may be called the Punjab Panchayat Samitis and Zila Parishads (Temporary Supersession) Amendment Act, 1984

2. *Amendment of section 3 of Punjab Act 29 of 1978.*—In the Punjab Panchayat Samitis and Zila Parishads (Temporary Supersession) Act, 1978, in section 3, in the proviso to sub-section (1), for the words “six year”, the words “seven years” shall be substituted.

ZAIL SINGH,
President.

Reason for enactment

The elections to the Panchayat Samitis and Zila Parishads in the State of Punjab were scheduled to be held with effect from 23rd November, 1983 and the process was to be completed by 27th March, 1984, but the election programme had to be postponed due to the disturbed law and order situation. The general situation in the State is still not conducive for the holding of elections to these bodies before the previously extended period which expires on 11th October, 1984. It is, therefore, imperative that the temporary supersession period of those bodies be extended for another one year. Hence this Bill.

2. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee of Parliament on Punjab Legislation. This measure is accordingly being enacted without reference to the Consultative Committee.

THE PUNJAB MUNICIPAL (AMENDMENT) ACT, 1984

The following President's Act was published in the *Gazette of India*, (Ext.) Part II, Section 1, No. 53, dated June 25, 1984:

PRESIDENT'S ACT NO. 2 OF 1984

Enacted by the President in the Thirty-fifth Year of the Republic of India as follows:—

An Act further to amend the Punjab Municipal (Amendment) Act, 1984.

In exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1984 (36 of 1984), the President is pleased to enact as follows:—

1. *Short title.*—This Act may be called the Punjab Municipal (Amendment) Act, 1984.

2. *Amendment of section 13.*—In the Punjab Municipal Act, 1911 (Punjab Act III of 1911), in section 13,—

(i) in the proviso to sub-section (2), before clause (ii), the following clause shall be inserted, namely:—

“(i) the State Government may, by notification, for reasons to be specified therein, extend the aforesaid term, from time to time, for a period not exceeding one year in aggregate;”;

(ii) sub-sections (3) and (3A) shall be omitted.

ZAIL SINGH
President.

Reasons for the enactment

The Punjab Municipal Act, 1911, provides, inter alia, that the term of office of the elected members of Municipal Committees shall be five years and the State Government shall cause fresh elections to be held and completed before the expiry of the aforesaid term. The general elections to the Municipal Committees in the State were held in June, 1979 and the term of office of five years of the elected members is expiring shortly. Due to unprecedented law and order situation in the State, it has not been possible to hold elections to the Municipal Committees before the expiry of the term of office of the present elected members. In order to overcome this difficulty, necessary provision is being made in the Punjab Municipal Act, 1911 empowering the State Government to extend the

term of office of the elected members of the Municipal Committees from time to time for a period not exceeding one year in aggregate.

2. Opportunity has also been availed to delete sub-sections (3) and (3A) of section 13 of the said Act which are no longer necessary.

(3). Since the Consultative Committee under the proviso to sub-section (2) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1984 (36 of 1984) has not yet been constituted, it is not practicable to consult such Committee and the matter being urgent, the Act is being enacted as a President's Act without such consultation.

Published in the *Gazette of India (Ext.)*, Part II, Section 1, No. 73,
dated September 1, 1984.

**THE ANDAMAN AND NICOBAR ISLANDS (AMENDMENT)
REGULATION, 1984**

REGULATION NO. 2 OF 1984.

Promulgated by the President in the Thirty-fifth Year of the Republic of India.

A Regulation further to amend the Andaman and Nicobar Islands Regulation, 1876.

Whereas by reason of certain liquor not being manufactured or produced in the Union territory of the Andaman and Nicobar Islands, counter-vailing duty is not leviable on such liquor which is imported into that territory ;

And Whereas the consumption, except for medicinal purposes, of such liquor would be injurious to health and the levy of a special duty on the importation of such liquor into the Union territory of the Andaman and Nicobar Islands would be an endeavour towards bringing about prohibition of the consumption as aforesaid of such liquor ;

Now, Therefore, in exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him :—

1. *Short title and commencement.*—(1) This Regulation may be called the **Andaman and Nicobar Islands (Amendment) Regulation, 1984.**

(2) This section and section 6 shall come into force at once, and the remaining provisions of this Regulation shall be deemed to have come into force on 24th day of October, 1973.

2. *Substitution of certain expression for certain other expression.*—Throughout the Andaman and Nicobar Islands Regulation, 1876 (Regulation III of 1876) (hereinafter referred to as the principal Regulation), for the words "Chief Commissioner", wherever they occur, the word "Administrator" shall be substituted.

3. *Amendment of section 3.*—In section 3 of the principal Regulation, for the definition of the expression "section", the following definitions shall be substituted, namely :—

"Administrator" means the Administrator of the territory appointed under article 239 of the Constitution ;

"beer" includes ale, stout, porter and any other fermented liquor usually made from malt ;

'country liquor' means liquor manufactured or produced in any part of India, other than foreign liquor ;

'duty' means the duty of excise or countervailing duty or, as the case may be, special duty ;

'foreign liquor' means beer, brandy, whisky, gin, rum, milk punch, wines and such other liquor as may, by notification in the Andaman and Nicobar Islands Gazette, be declared by the Administrator, as foreign liquor for the purposes of this Regulation ;

'import' means bringing into the territory from any place in India beyond the limits of the territory ;

'liquor' includes spirits of wine, methylated or denatured spirits, spirits, wines, toddy, beer, feni and all liquids consisting of, or containing, alcohol, other than medicinal and toilet preparations containing alcohol ;

'proof litre' means a litre of a mixture of ethyl alcohol and distilled water which at the temperature of 10.5 degrees Centigrade weighs exactly twelve-thirteenth (12/13) parts of an equal measure of distilled water at the same temperature ;

'section' means a section of this Regulation ;

'special duty' means a tax on the import of any description of liquor being description of liquor on which countervailing duty as mentioned in entry 51 of List II in the Seventh Schedule to the Constitution is not imposable on the ground merely that such description of liquor is not being manufactured or produced in the territory ;

'territory' means the Union territory of the Andaman and Nicobar Islands." ;

4. *Insertion of new section 31A.*—After section 31 of the principal Regulation, the following section shall be inserted, namely :—

"31A. *Levy and collection of duty.*—There shall be levied and collected in the manner provided by this Regulation and the rules thereunder and at such rates, not exceeding the rates set forth in the Schedule, as the Administrator may, by notification in the Andaman and Nicobar Islands Gazette, specify, a duty of excise or a countervailing duty or a special duty, as the case may be, on all liquor of the descriptions specified in the Schedule, being liquor manufactured or produced in, or brought into, the territory and such duty shall be payable by the person manufacturing or producing or importing such liquor :

Provided that no such duty shall be levied on toddy when used for the manufacture of jaggery, vinegar, yeast, neera or when drunk as such.

Explanation.—For the removal of doubts it is hereby declared that in any notification under this section, it shall not be necessary to specify separately the rate of countervailing duty or special duty and, unless otherwise provided in such notification expressly, any rate specified in such notification as the rate of excise duty in respect of any description of liquor shall be deemed to be also the rate of countervailing duty or special duty, as the case may be, in respect of such description of liquor."

5. *Insertion of Schedule.*—After section 35 of the principal Regulation the following Schedule shall be inserted, namely :—

"THE SCHEDULE
(See Section 31A)

S. No.	Description of liquor	Rate Rs. ps.
1	2	3
1.	Foreign liquor, other than milk punch, wines and beer	25.00 per proof litre.
2.	Milk punch and wines	6.00 per bulk litre.
3.	Beer	3 00 per bulk litre.
4.	Country liquor	3 00 per proof litre.
5.	Rectified spirit or absolute alcohol except when used for manufacture of liquor or for medicinal purposes.	2.50 per proof litre.
6.	Blended country liquor	2.00 per bulk litre in addition to the duty on country liquor."

6. *Validation and saving.*—(1) Notwithstanding any judgment, decree or order of any court or other authority, anything or any action done or taken or purported to have been done or taken under the principal Regulation, and the rules thereunder, before the date of promulgation of this Regulation shall be, and shall be deemed always to have been, as valid and effective as if such thing or action had been done or taken under the principal Regulation, as amended by this Regulation, and accordingly—

(a) any duty or fee levied, assessed or collected or purporting to have been levied, assessed or collected under the principal Regulation, and the rules thereunder, before the dated of promulgation of this Regulation shall be deemed to have been validly levied, assessed or collected in accordance with law ;

(b) no suit or other proceeding shall be maintained or continued in any court or before any authority for the refund, and no enforcement shall be made by any court or other authority of any decree or order directing the refund, of any such duty or fee which has been so collected ;

(c) recoveries shall be made in accordance with the provisions of the principal Regulation, and the rules thereunder, of all amounts which would have been collected as duties or fees under the principal Regulation by reason of the amendments made in the principal Regulation by this Regulation but which had not been collected.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person before the date of promulgation of this Regulation shall be punishable as an offence which would not have been so punishable if this Regulation had not been promulgated.

(2) The amendments made in the principal Regulation by this Regulation, and the provisions of sub-section (1) of this section, shall not apply to, or in relation to, any case in which, under the order of the High Court, refund had been made before the date of promulgation of this

Regulation of any duty collected under the principal Regulation and the rules thereunder.

ZAIL SINGH,
President.

THE CRIMINAL PROCEDURE LAWS (PUNJAB AMENDMENT) ACT, 1984

The following President's Act was published in the *Gazette of India*, (Ext.) Part II, Section 1, No. 54, dated June, 23, 1984

PRESIDENT'S ACT NO. 1 OF 1984

Enacted by the President in the Thirty-fifth Year of the Republic of India.

An Act to amend the Code of Criminal Procedure (Punjab Amendment) Act, 1983 and further to amend the Code of Criminal Procedure, 1973, in its application to the State of Punjab.

In exercise of the powers conferred by section 3 of the Punjab Legislature (Delegation of Powers) Act, 1984 (36 of 1984), the President is pleased to enact as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Criminal Procedure Laws (Punjab Amendment) Act, 1984.

(2) It shall come into force at once.

2. *Amendment of Punjab Act 22 of 1983.*—In the Code of Criminal Procedure (Punjab Amendment) Act, 1983, in sub-section (3) of section 1, for the words "one year", the words "two years" shall be substituted.

3. *Amendment of Act 2 of 1974.*—In sub-section (2) of section 167 of the Code of Criminal Procedure, 1973, in its application to the State of Punjab, for the words "fifteen days", at both the places where they occur, the words "thirty days" shall be substituted.

ZAIL SINGH,
President.

Reasons for the enactment

In order to ensure maintenance of public order and tranquility in the State of Punjab and for that purpose to confer certain powers under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) on the Executive Magistrates, the Legislature of the State of Punjab enacted the Code of Criminal Procedure (Punjab Amendment) Act, 1983 (Punjab Act No. 22 of 1983). The situation in the State still continues to be disturbed and to meet the situation effectively, it is considered necessary that the operation of Punjab Act No. 22 of 1983, which is due to expire on 27th June, 1984, be extended by one more year. In view of the unprecedented and extraordinary conditions prevailing in the State, the investigating agencies in the State are under heavy strain and will, therefore, not be able to complete interrogation of the accused persons within the time limit of fifteen days prescribed under section 167 of the Code of Criminal Procedure for keeping an accused person in police custody during investigation. The amendment of section 167 of the Code of Criminal Procedure to extend the said period of fifteen days for which a person can be authorised by the Magistrate to be detained in police custody to thirty days, is, therefore, considered necessary.

2. The present Act seeks to achieve the objects.

3. The Consultative Committee of Members of Parliament under the proviso to sub-section (2) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, has not yet been constituted. It is thus not practicable to consult such Committee before enacting this Act and the Act, is therefore, being enacted without reference to the Consultative Committee.

**THE HOOGHLY DOCKING AND ENGINEERING COMPANY
LIMITED ACQUISITION AND TRANSFER OF UNDER-
TAKINGS) ORDINANCE, 1984**

Published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 56, dated June 28, 1984.

ORDINANCE NO. 7 OF 1984

Promulgated by the President in the Thirty-fifth Year of the Republic of India.

An Ordinance to provide for the acquisition and transfer of the undertakings of the Hooghly Docking and Engineering Company Limited with a view to securing the better utilisation of the available infrastructure thereof to modernise and increase the capacity for shipbuilding and ship repairing so as to reduce the import of ships, vessels and craft and to augment the production of grey iron, non-ferrous and alloy castings by the said undertakings so as to subserve the interests of the general public by ensuring the continued supply of the said articles which are essential to the needs of the economy of the country, and for matters connected therewith and incidental thereto.

(Text omitted)

**THE FOREIGN CONTRIBUTION (REGULATION)
AMENDMENT ORDINANCE, 1984**

Published in the *Gazette of India*, (Ext.), Part III, Section 1, No. 90, dated October 20, 1984.

ORDINANCE NO. 12 OF 1984

Promulgated by the President in the Thirty-fifth Year of the Republic of India.

An Ordinance to amend the Foreign Contribution (Regulation) Act, 1976.

Whereas a Act to amend the Foreign Contribution (Regulation) Act, 1976, has been passed by the Council of States and is pending in the House of the People;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Act;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Foreign Contribution (Regulation) Amendment Ordinance, 1984.

(2) The provisions of this Ordinance, other than sections 4 and 6, shall come into force at once, and sections 4 and 6 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*—In section 2 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976) (hereinafter referred to as the principal Act), in sub-section 1,—

(a) in clause (c), the following Explanation shall be inserted at the end, namely :—

“*Explanation.*—A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause ;”

(b) for clause (g), the following clause shall be substituted, namely :—

“(g) “political party” means—

(i) an association or body of individual citizens of India—

(1) which is, or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968, as in force for the time being ; or

(2) which has set up candidates for election to any Legislature but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order 1968 ;

(ii) a political party mentioned in column 1 of Table I to the notification of the Election Commission of India No. 56/J&K/82, dated the 19th July, 1982 as in force for the time being ;”

3. *Amendment of section 4.*—In section 4 of the principal Act, in sub-section (1), in clause (c), for the words “Government servant”, the words “Judge, Government servant” shall be substituted.

4. *Amendment of section 6.*—In section 6 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely :—

“(1) No association [other than an organisation referred to in sub-section (1) of section 5] having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such association,—

(a) registers itself with the Central Government in accordance with the rules made under this Act ; and

(b) agrees to receive such foreign contributions only through such one of the branches of a bank as it may specify in its application for such registration.

and every association so registered shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was utilised by it :

Provided that where such association obtains any foreign contribution through any branch other than the branch of the bank through which it has agreed to receive foreign contribution or fails to give such intimation within the prescribed time or in the prescribed manner, or gives any intimation which is false, the Central Government may, by notification in the Official Gazette, direct that the such association shall not, after the date of issue of such notification, accept any foreign contribution without the prior permission of the Central Government.

(1A) Every association referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and shall also give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by it."

5. *Amendment of section 9.*—In section 9 of the principal Act, in the opening portion, for the words "Government servant", the words "Judge, Government servant" shall be substituted.

6. *Amendment of section 10.*—In section 10 of the principal Act, in clause (b), for the words and figure "require any association, specified in section 6", the words, brackets and figures "without prejudice to the provisions of sub-section (1) of section 6, require any association specified in that sub-section" shall be substituted.

7. *Amendment of section 14.*—In section 14 of the principal Act, for the words and figure "class I post", at both the places where they occur, the words and letter "Group A post" shall be substituted.

8. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely :—

"15A. *Audit of accounts.*—Where any organisation or association fails to furnish any returns under this Act within the time specified therefor or the returns so furnished are not in accordance with law or if, after inspection of such returns, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being contravened, that Government may, by general or special order authorise such gazetted officer, holding a Group A post, as it may think fit, to audit any books of account kept or maintained by such organisation or association, as the case may be, and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account :

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act."

9. *Insertion of new section 25A.*—After section 25 of the principal Act, the following section shall be inserted, namely :—

"25A. *Prohibition of acceptance of foreign contribution.*—Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under sub-section (1) of section 23 or section 25, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence, shall not accept any foreign contribution for a period of three years from the date of the subsequent conviction."

ZAIL SINGH
President.

Published in the Gazette of India, (Ext.), Part II, Section 1, No. 9,
date November 20, 1984.

THE SUGAR UNDERTAKINGS (TAKING OVER OF MANAGEMENT) AMENDMENT ORDINANCE, 1984

ORDINANCE NO. 14 OF 1984

Promulgated by the President in the Thirty-fifth Year of the Republic of India.

An Ordinance further to amend the Sugar Undertakings (Taking Over of Management) Act, 1978.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Sugar Undertakings (Taking Over of Management) Amendment Ordinance, 1984.**

(2) It shall come into force at once.

2. *Amendment of section 3 of Act 49 of 1978.*—In section 3 of the Sugar Undertakings (Taking Over of Management) Act, 1978, in the proviso to sub-section (5), for the words “six years”, the words “seven years” shall be substituted.

ZAIL SINGH,
President.

Published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 93,
dated November 20, 1984.

**THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
ORDINANCE, 1984.**

ORDINANCE NO. 15 OF 1984

Promulgated by the President in the Thirty-fifth Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Representation of the People (Amendment) Ordinance, 1984.**

(2) It shall come into force at once.

2. *Insertion of new section 73A.*—In the Representation of the People Act, 1951 (43 of 1951), after section 73, the following section shall be inserted, namely :—

“**73A** *Special provision as to certain elections.*—Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon the expiry of the term of the House of the People in existence on the commencement of the Representation of the People (Amendment) Ordinance, 1984—

(a) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Assam and the Parliamentary constituencies in the State of Punjab ; and

(b) the Election Commissioner may take the steps in relation to elections from the Parliamentary constituencies in the State of Assam and the Parliamentary constituencies in the State of Punjab separately and in such manner and on such dates as it may deem appropriate."

ZAIL SINGH,
President.

Published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 91,
dated October 22, 1984.

**THE CALCUTTA METRO RAILWAY (OPERATION AND
MAINTENANCE) TEMPORARY PROVISIONS ORDINANCE,
1984**

ORDINANCE NO. 13 OF 1984.

Promulgated by the President in the Thirty-fifth Year of the Republic of India.

An Ordinance to make temporary provisions for the operation and maintenance of the Calcutta metro railway and for matters connected therewith, pending the making of regular arrangements for such operation and maintenance.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

**CHAPTER I
Preliminary**

1. *Short title, commencement and application.*—(1) This Ordinance may be called the Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Ordinance, 1984.

(2) It shall come into force at once.

(3) It shall apply to the metropolitan city of Calcutta.

2. *Definitions.*—(1) In this Ordinance, unless the context otherwise requires,—

(a) "Calcutta metro railway administration" or "metro railway administration" means the General Manager of the metro railway appointed under section 3 of the Construction Act ;

(b) "commissioner" means a commissioner of the metro railway appointed under section 27 of the Construction Act ;

(c) "Construction Act" means the Metro Railways (Construction of Works) Act, 1978 (33 of 1978) ;

(d) "metro railway" means such portion of the metro railway constructed in the metropolitan city of Calcutta under the provisions of the Construction Act as may, for the time being, be available for public carriage of passengers and includes—

(i) all land within the boundary marks indicating the limits of the land appurtenant to the metro railway ;

(ii) all lines, of rail sidings, yards or branches worked over for the purposes of, or in connection with, the metro railway ;

(iii) all stations, offices, ventilation shafts and ducts, warehouses, workshop, manufactories, fixed plants and machineries, sheds, depots, and

other works constructed for the purpose of, or in connection with, the metro railway ;

(e) "prescribed" means prescribed by rules made under this Ordinance.

(2) All other words and expressions used herein and not defined but defined in the Indian Railways Act, 1890 (9 of 1890), or the Metro Railways (Construction of Works) Act, 1978 (33 of 1978), shall have the meanings, respectively, assigned to them in those Acts.

CHAPTER II

The Calcutta Metro Railway Administration

3. *Calcutta railway administration to be responsible for the operation and maintenance of the metro railway.*—(1) Subject to the other provisions of this Ordinance, the Calcutta metro railway administration shall be responsible for the operation and maintenance of the metro railway.

(2) The Calcutta metro railway administration may, for the efficient performance of its functions under this Ordinance, appoint such officers and other employees as it considers necessary on such terms and conditions of service as may be prescribed.

4. *Previous sanction of the Central Government required for the opening of metro railway.*—(1) No metro railway shall be opened for the public carriage of passengers except with the previous sanction of the Central Government.

(2) Before giving its sanction under sub-section (1), the Central Government shall, after considering the report given (whether before or after the commencement of this Ordinance) by the commissioner under clause (a) of sub-section (2) of section 27 of the Construction Act and other relevant factors, satisfy itself that the metro railway can be opened without danger to the public using it.

(3) A sanction given under this section may be either absolute or subject to such conditions as the Central Government thinks necessary for the safety of the public.

(4) Where any sanction for the opening of the metro railway under this section is given subject to any conditions, such railway shall not be worked or used until such conditions are fulfilled to the satisfaction of the Central Government.

CHAPTER III

Special Provisions for the Running of the Metro Railway

5. *Carriage of goods.*—(1) No person shall, while travelling in the metro railway, carry with him any goods other than a small baggage containing personal belonging not exceeding such volume and weight as may be prescribed.

(2) Where any person travels in the metro railway in contravention of the provisions of sub-section (1), he shall, notwithstanding that he holds a valid pass or tickets for any travel in such railway, be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf or by any other person whom such metro railway official may call to his aid.

6. *Reservation compartment for females not necessary.*—It shall not be necessary for the metro railway administration to reserve any compartment in any train for the exclusive use of females.

7. *Dangerous or offensive goods.*—(1) No person shall take or cause to be taken any dangerous or offensive goods upon the metro railway.

(2) If any metro railway official has reason to believe that any such goods are contained in a package in the custody of any passenger, he may cause the package to be opened for the purpose of ascertaining its contents.

8. *Penalty for taking or causing to take offensive or dangerous goods upon the metro railway.*—(1) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any offensive goods upon the metro railway, he shall be punishable with fine which may extend to five hundred rupees.

(2) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any offensive goods upon the metro railway, he shall be punishable with imprisonment for a term which may extend to four years and with fine which may extend to five thousand rupees.

(3) In addition to the penalties specified in sub-section (1) or sub-section (2), a person taking or causing to be taken any offensive goods or dangerous goods upon the metro railway shall be responsible also for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the metro railway.

9. *Smoking in compartments, etc.*—(1) No person shall smoke in any compartment or carriage of the metro railway or in any underground metro railway station.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) If any person persists in so smoking after being warned by any metro railway official to desist, he may, in addition to incurring the liability mentioned in sub-section (2), be removed from the compartment or carriage in which he is travelling or from the underground station at which he may be found smoking by any metro official authorised by the metro railway administration in this behalf.

10. *Drunkenness or nuisance upon the metro railway.*—(1) If any person,—

(a) is in a state of intoxication ; or

(b) commits any nuisance or act of indecency, or uses obscene or abusive language ; or

(c) wilfully or without excuse interferes in any way with the comfort of any passenger, in any carriage or upon any part of the metro railway, he shall be punishable with fine which may extend to two hundred and fifty rupees and shall also be liable to forfeiture of the fare which he may have paid or any pass or ticket which he may have obtained or purchased, or be removed from such carriage or part by any metro railway official authorised by the metro railway administration in this behalf.

(2) If any metro railway official is in a state of intoxication while on duty, he shall be punishable with fine which may extend to two hundred and fifty rupees, or where the improper performance of the duty would be likely to endanger the safety of any passenger travelling or being upon the metro railway, with imprisonment for a term which may

extend to two years, or with fine which may extend to five hundred rupees, or with both.

11. *Prohibition on demonstrations upon the metro railway.*—(1) No demonstration of any kind whatsoever shall be held on any part of the metro railway or other premises thereof and it shall be open to the metro railway administration to exclude from such premises any person attending such demonstrations whether or not he is in possession of a pass or ticket entitling him to be in the said premises.

(2) No person shall paste or put up any poster or write or draw anything or matter in any compartment or carriage of the metro railway, or any premises thereof, without any lawful authority and any person found engaged in doing any such act may be removed from the compartment, carriage or premises by any metro railway official authorised by the metro railway administration in this behalf.

(3) Whoever contravenes any of the provisions of sub-section (1) or sub-section (2), or being asked by any metro railway official to leave any compartment, carriage or premises refuses to do so, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

12. *Penalty for travelling on roof, etc., train.*—If any passenger travels on the roof of a train or persists in travelling in any part of a train not intended for the use of passengers or projects any part of his body out of a train after being warned by any metro railway official to desist, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf.

13. *Penalty for unlawfully entering or remaining upon the metro railway or walking on the metro railway line.*—(1) If a person enters into or upon the metro railway without any lawful authority or having entered with lawful authority remains there unlawfully and refuses to leave on being requested to do so by any metro railway official, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(2) If any person walks on the metro railway line without any lawful authority, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

14. *Endangering the safety of passengers.*—If any metro railway official, when on duty, endangers the safety of any passenger,—

(a) by any rash or negligent act or omission; or

(b) by disobeying any rule or order which such official was bound by the terms of his employment to obey, and of which he had notice, he shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to six thousand rupees, or with both.

15. *Abandoning train, etc. without authority.*—If any metro railway official, when on duty, is entrusted with any responsibility connected with the running of a train, or any other rolling stock from one station or place to another station or place, and he abandons his duty before reaching such

station or place, without authority or without properly handing over such train or rolling stock to another authorised metro railway official, he shall be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

16. *Obstructing running of trains, etc.*—If any person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon the metro railway by squatting, picketing, or keeping without authority any rolling stock on the metro railway or tampering with any signalling installations or by interfering with the working mechanism thereof, or otherwise, he shall be liable to be removed by any metro railway official authorised by the metro railway administration in this behalf and shall also be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

17. *Offences by companies.*—(1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence or prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director manager, secretary or other officer of the company, such director manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individual ; and

(b) “director”, in relation to a firm, means a partner in this firm.

CHAPTER IV Miscellaneous

18. *Application of Act 9 of 1890 and the rules etc., made thereunder to the metro railway.*—Save as otherwise expressly provided in this Ordinance, the provisions of the Indian Railways Act, 1890 (9 of 1890), and the rules, orders or notifications made or issued thereunder shall so far as may and be, subject to such modifications as may be necessary, apply to the operation and maintenance of the metro railway, as if such metro railway were a railway as defined under that Act, and the references to “railway administration” and “inspector” in that Act shall be construed as references to the “metro railway administration” and “commissioner” respectively.

19. *Effect of Ordinance and rules, etc., inconsistent with other enact-*

ments.—The provisions of this Ordinance or any rule made or any notification issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

20. *Protection of action taken in good faith*—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government, the metro railway administration or any officer or other employee of that Government or the metro railway administration for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit, prosecution or other legal proceeding shall lie against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway administration for any damage caused or likely to be caused by anything which is in good faith done or intend to be done under this Ordinance.

21. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, do anything not inconsistent with such provisions which appears to it be necessary or expedient for the purpose of removing the difficulty.

22. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely :—

(a) the terms and conditions of service of the officers and other employees of the metro railway administration under sub-section (2) of section 3 ;

(b) the cases in which and the extent to which the procedure specified in section 4 for the opening of the metro railway for public carriage of passengers may be dispensed with ;

(c) the volume and weight of the baggage containing personal belongings that may be carried by a person while travelling in the metro railway ;

(d) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

ZAIL SINGH,
President.

Published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 16,
dated March 1, 1985

**THE REQUISITIONING AND ACQUISITION OF IMMOVABLE
PROPERTY (AMENDMENT) ORDINANCE, 1985
ORDINANCE NO. 2 OF 1985**

Promulgated by the President in the Thirty-sixth Year of the Republic
of India

An Ordinance further to amend the Requisitioning and Acquisition
of Immovable Property Act, 1952:

Whereas Parliament is not in session and the President is satisfied that
circumstances exist which render it necessary for him to take immediate
action ;

Now, Therefore, in exercise of the powers conferred by clause (1) of
article 123 of the Constitution, the President is pleased to promulgate the
following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called
the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Amendment of section 6.*—In section 6 of the Requisitioning and
Acquisition of Immovable Property Act, 1952 (30 of 1952) (hereinafter
referred to as the principal Act), in sub-section (1A), for the words “fifteen
years”, wherever they occur, the words “seventeen years” shall be substituted.

3. *Amendment of section 8.*—In section 8 of the principal Act, in sub-
section (2A), in clause (c), for sub-clause (ii), the following sub-clause
shall be substituted, namely :—

“(ii) secondly with effect from the date of expiry of five years,
and thirdly with effect from the date of expiry of ten years, from the date
on which the revision under sub-clause (i) takes effect.”.

ZAIL SINGH
President.

Published in the *Gazette of India*, (Ext.), Part II, Section, 1 No 19,
dated February 20, 1984

**THE BHOPAL GAS LEAK DISASTER (PROCESSING OF
CLAIMS) ORDINANCE, 1985
ORDINANCE NO. 1 OF 1985**

Promulgated by the President in the Thirty-sixth Year of the Republic
of India.

An Ordinance to confer certain powers on the Central Government
to secure that claims arising out of, or connected with, the Bopal gas leak
disaster are dealt with speedily, effectively, equitably and to the best advantage
of the claimants and for matters incidental thereto.

Whereas Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take immediate
action ;

Now, Therefore, in exercise of the powers conferred by clause (1) of
article 123 of the constitution, the President is pleased to promulgate the
following Ordinance :—

1. *Short title and commencement*—(1) The Ordinance may be called the **Bhopal Gas Leak Disaster, Processing of Claims) Ordinance, 1985.**

(2) It shall come into force at once.

2. *Definition*.—In this Ordinance, unless the context otherwise requires,—

(a) “Bhopal gas leak disaster” or “disaster” means the occurrence on the 2nd and 3rd days of December, 1984 which involved the release of highly noxious and abnormally dangerous gas from a plant in Bhopal (being a plant of the Union Carbide India Limited, a subsidiary of the Union Carbide Corporation, U.S.A.) and which resulted in loss of life and damage to property on an extensive scale;

(b) “claim” means—

(i) a claim, arising out of, or connected with the disaster, for compensation or damages for any loss of life or personal injury which has been, or is likely to be, suffered;

(ii) a claim, arising out of, or connected with the disaster, for any damage to property which has been, or is likely to be, sustained;

(iii) a claim for expenses incurred or required to be incurred for containing the disaster or mitigating or otherwise coping with the effects of the disaster;

(iv) any other claim (including any claim by way of loss of business or employment) arising out of, or connected with, the disaster;

(c) “claimant” means a person entitled to make a claim;

(d) “Commissioner” means the Commissioner appointed under section 6;

(e) “person” includes the Government;

(f) “Scheme” means a Scheme framed under section 9.

Explanation—For the purposes of clause (b) and (c), where the death of a person has taken place as a result of the disaster, the claim for compensation or damages for the death of such person shall be for the benefit of the spouse, children (including a child in the womb) and other heirs of the deceased and they shall be deemed to be the claimants in respect thereof.

3. *Power of Central Government to represent claimants*.—(1) Subject to the other provisions of this Ordinance, the Central Government shall, and shall have the exclusive right to represent, and act in place of (whether within or outside India) every person who has made, or is entitled to make, a claim for all purposes connected with such claim in the same manner and to the same effect as such person.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the purposes referred to therein include—

(a) institution of any suit or other proceeding in or before any court or other authority (whether within or outside India) or withdrawal of any such suit or other proceeding, and

(b) entering into a compromise.

(3) The provisions of sub-section (1) shall apply also in relation to claims in respect of which suits or other proceeding have been instituted in or before any court or other authority (whether within or outside India) before the commencement of this Ordinance:

Provided that in the case of any such suit or other proceeding with respect to any claims pending immediately before the commencement of this Ordinance in or before any court or other authority outside India,

the Central Government shall represent, and act in place of, or along with such claimant, if such court or other authority so permits.

4. *Claimant's right to be represented by a legal practitioner.*—Notwithstanding anything contained in section 3, in representing, and acting in place of, any person in relation to any claim, the Central Government shall have due regard to any matters which such person may require to be urged with respect to his claim and shall, if such person so desires, permit at the expense of such person, a legal practitioner of his choice to be associated in the conduct of any suit or other proceeding relating to his claim.

5. *Power of Central Government.*—For purpose of discharging its functions under this Ordinance the Central Government shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) receiving evidence on affidavits ;

(d) requisitioning any public record or copy thereof from any court or office ;

(e) issuing commissions for the examination of witnesses or documents ;

(f) any other matter which the Central Government may, by notification in the Official Gazette, specify.

6. *Commissioner and other officers and employees* —(1) For the purpose of assisting it in discharging its functions under this Ordinance, the Central Government may appoint an officer, to be known as the Commissioner for the welfare of the victims of the Bhopal gas leak disaster, and such other officers and employees to assist him as that Government may deem fit.

(2) The Commissioner shall discharge such functions as may be assigned to him by the Scheme.

(3) The Commissioner and such of the officers subordinate to him as may be authorised by the Central Government by notification in the Official Gazette in this behalf may, for the discharge of their functions under the Scheme, exercise all or any of the powers which the Central Government may exercise under section 5.

(4) All officers and authorities of the Government shall act in aid of the Commissioner.

7. *Power to delegate.*—The Central Government, may by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, all or any of its powers under this Ordinance (excepting the power under section 9 to frame a Scheme) to the Government of Madhya Pradesh or an officer of the Central Government not below the rank of a Joint Secretary to that Government or an officer of the Government of Madhya Pradesh not below the rank of a Secretary to that Government.

8. *Limitation.*—(1) In computing, under the Limitation Act, 1963 (36 of 1963) or any other law for the time being in force, the period of limitation for the purpose of instituting a suit or other proceeding for the enforcement of a claim, any period after the date on which such claim is regis-

tered under, and in accordance with, the provisions of the Scheme shall be excluded.

(2) Nothing in sub-section (1) shall apply to any proceedings by way of appeal.

9 *Power to frame a Scheme.*—(1) The Central Government, shall, for carrying into effect the purposes of this Ordinance frame a Scheme as soon as may be after the commencement of this Ordinance.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), a Scheme may provide for all or any of the following matters, namely :—

(a) the registration of the claims under the Scheme and all matters connected with such registration ;

(b) the processing of the claims for securing their enforcement and matters connected therewith ;

(c) the maintenance of records and registers in respect of the claims ;

(d) the creation of a fund for meeting expenses in connection with the administration of the Scheme and of the provisions of this Ordinance ;

(e) the amounts which the Central Government may, after due appropriation made by Parliament by law in that behalf, credit to the fund referred to in clause (d) and any other amounts which may be credited to such fund ;

(f) the utilisation, by way of disbursal (including apportionment) or otherwise, of any amounts received in satisfaction of the claim ;

(g) the officer (being a judicial officer of a rank not lower than that of a District Judge) who make such disbursal or apportionment in the event of a dispute ;

(h) the maintenance and audit of accounts with respect to the amounts referred to in clause (e) and (f) ;

(i) the functions of the Commissioner and other officer and employees appointed under section 6.

10. *Removal of doubts.*—For the removal of doubts, it is hereby declared that—

(a) any sums paid by the Government to a claimant otherwise than by way of disbursal of the compensation or damages received as a result of the adjudication or settlement of his claim by a court or other authority shall be deemed to be without prejudice to the adjudication or settlement by such court or other authority of his claim to receive compensation or damages in satisfaction of his claim and shall not be taken into account by such court or other authority in determining the amount of compensation or damages to which he may be entitled in satisfaction of his claim ;

(b) in disbursing under the Scheme the amount received by way of compensation or damages in satisfaction of a claim as a result of the adjudication or settlement of the claim by a court or other authority, deduction shall be made from such amount of the sums, if any, paid to the claimant by the Government before the disbursal of such amount.

11. *Overriding effect.*—The provisions of this Ordinance and of any Scheme framed thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance

or any instrument having effect by virtue of any enactment other than this Ordinance.

12. *Laying*—Every notification issued under clause (f) of section 5 and every Scheme framed under section 9 shall be laid, as soon as may be after it is made or framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the Scheme or both Houses agree that the notification or the Scheme should not be made or framed, the notification or the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or Scheme.

ZAIL SINGH,
President.

Published in the *Gazette of India, (Extraordinary)*, Part II, Section 1,
No. 34, dated April 29, 1985.

**THE INDUSTRIAL DISPUTES (ANDAMAN AND NICOBAR
ISLANDS AMENDMENT) REGULATION, 1985.
REGULATION NO. 1 OF 1985.**

Promulgated by the President in the Thirty-sixth Year of the Republic of India.

A Regulation further to amend the Industrial Disputes Act, 1947, in its application to the Union territory of Andaman and Nicobar Islands.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him :—

1. *Short title, extent and commencement.*—(1) This Regulation may be called the Industrial Disputes (Andaman and Nicobar Islands Amendment) Regulations, 1985.

(2) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

(3) It shall come into force at once.

2. *Amendment of section 7.*—In the Industrial Disputes Act, 1947, (14 of 1947), in its application to the Union territory of the Andaman and Nicobar Islands (hereinafter referred to as the principal Act), for clause (b) of sub-section (3) of section 7, the following clause shall be substituted, namely:—

“(b) he is, or has been, or is qualified to be, a District Judge or an Additional District Judge; or”

Published in the *Gazette of India, Extraordinary*, Part II,
Section 1, No. 35, dated 29th April, 1985.

**THE LACCADIVE, MINICOY AND AMINDIVI ISLANDS (CIVIL
COURTS) AMENDMENT REGULATION, 1985
REGULATION NO. 2 OF 1985**

Promulgated by the President in the Thirty-sixth Year of the

Republic of India.

A Regulation further to amend the Laccadive, Minicoy and Amindivi Islands (Civil Courts) Regulation, 1985.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

1. (1) *Short title and commencement.*—This Regulation may be called the Laccadive, Minicoy and Amindivi Islands (Civil Court) Amendment Regulation, 1985

(2) It shall come into force at once.

2. *Amendment of section 14.*—In the Laccadive, Minicoy and Amindivi Islands (Civil Courts) Regulation, 1965, in clause (a) of sub-section (1) of section 14, for the words “five thousand rupees”, the words “fifteen thousand rupees” shall be substituted.

ZAIL SINGH,
President.

THE PUNJAB AGRICULTURE PRODUCE MARKETS (AMENDMENT) ACT, 1985

The following President's Act was published in the *Gazette of India*, (Ext.) Part II, Section 1, No. 50, dated 11th June, 1985

PRESIDENT'S ACT No. 1 OF 1985

Enacted by the President in the Thirty-sixth Year of the Republic of India.

An Act further to amend the Punjab Agricultural Produce Markets Act, 1961.

In exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1984 (36 of 1984), the President is pleased to enact as follow:—

1. *Short title.*—This Act may be called the Punjab Agriculture Produce Markets (Amendment) Act, 1985.

2. *Amendment of section 12-D of Punjab Act 23 of 1961.*—In the Punjab Agricultural Produce Markets Act, 1961, in section 12-D, in sub-section (3), for the words “three years” the words “three years and six months” shall be substituted.

ZAIL SINGH,
President.

THE CODE OF CRIMINAL PROCEDURE (PUNJAB AMENDMENT) AMENDING ACT, 1985

The following President's Act was published in the *Gazette of India*, (Ext.) Part II, Section 1, No. 51, dated 27th June, 1985.

PRESIDENT'S ACT No. 2 OF 1985

Enacted by the President in the Thirty-sixth Year of the Republic of India.

An Act further to amend the Code of Criminal Procedure (Punjab Amendment) Act, 1983.

In the exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of powers) Act, 1984 (36 to 1984), the Pre-

sident is pleased to enact as follows:—

1. (1) *Short title and commencement.*—This Act may be called the **Criminal Procedure (Punjab Amendment) Amending Act, 1985.**

(2) It shall come into force at once.

2. *Amendment of Punjab Act 22 of 1983.*—In the Code of Criminal Procedure (Punjab Amendment) Act, 1983, in sub-section (3) of section 1: for the words “two years” the words “three years” shall be substituted.

ZAIL SINGH
President.

THE PUNJAB MUNICIPAL (AMENDMENT) ACT, 1985

The following President's Act was published in the *Gazette of India*, (Ext.), Part II, Section 1, No. 52, dated 28th June, 1985.

PRESIDENT'S ACT NO. 3 OF 1984.

Enacted by the President in the Thirty-sixth Year of the Republic of India.

An Act further to amend the Punjab Municipal Act, 1911.

In exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1984 (36 of 1984), the President is pleased to enact as follows:—

1. *Short title.*—This Act may be called the **Punjab Municipal (Amendment) Act, 1985**

2. *Amendment of section 13 of Punjab Act III of 1911.*—In the Punjab Municipal Act, 1911, in section 13,—

(i) in the proviso to sub-section (2), in clause (i), for the words “one year”, the words “two years” shall be substituted; and

(ii) after sub-section (2B), the following sub-section shall be inserted, namely:—

“(3) Where in the opinion of the State Government elections to a committee cannot be held before the expiry of the term specified or extended, as the case may be, under sub-section (2), the State Government may, by notification, declare that all members of such committee shall, on and from the date of expiry of the term so specified or so extended, cease to hold office and notwithstanding anything contained in section 238, the committee shall, on and from that date, stand superseded and the provisions of sub-section (4) of the section 238 shall as far as may be, apply to such supersession:

Provide that the period of supersession shall not exceed two years”.

ZAIL SINGH,
President.

THE GURU NANAK DEV UNIVERSITY AMRITSAR (AMENDMENT) ACT, 1985

The following President's Act was published in the *Gazette of India*, (Ext.), Part II, Section. 1, No. 53, dated July 12, 1985.

PRESIDENT'S ACT NO. 4 OF 1985

Enacted by the President in the Thirty-sixth Year of the Republic of India.

An Act further to amend the Guru Nanak Dev University Amritsar Act, 1969.

In exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1984 (36 of 1984), the President is pleased to enact as follows:—

1. *Short title.*—This Act may be called the Guru Nanak Dev University Amritsar (Amendment) Act, 1985.

2. *Amendment of section 10.*—In the Guru Nanak Dev University Act, 1969 (Punjab Act 21 of 1969) (hereinafter referred to as the principal Act), in section 10, after sub-section (3), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 21st day of November, 1984, namely:—

“(4) In the event of the occurrence of any vacancy in the office of the Vice-Chancellor by reason of his death, resignation, expiration of his term or otherwise, the Chancellor may appoint any person to act as the Vice-Chancellor for a period not exceeding one year or until a new Vice-Chancellor appointed under sub-section (1) enters upon his office, whichever is earlier.

(4A) The Chancellor shall determine the amount of remuneration or allowances and other conditions of service of the person appointed under sub-section (4).”

3. *Validation.*—Anything done or any action taken (including the appointment of any person and anything done or action taken by such person) or purported to have been done or taken under or for the purposes of the principal Act on or after the 21st day of November, 1984 and before the commencement of this Act shall be deemed to have been validly done or taken in accordance with law as if the provisions of the principal Act as amended by section 2 had been in force at all material times.

ZAIL SINGH,
President.

Published in the *Gazette of India*, (Ext.), Part II, Section 1,
No. 16, dated 8th March, 1985.

THE REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY (AMENDMENT) ORDINANCE, 1985.

ORDINANCE No. 2 OF 1985.

Promulgated by the President in the Thirty-sixth Year of the Republic of India.

An Ordinance further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called

the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Amendment of section 6.*—In section 6 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952) (hereinafter referred to as the principal Act), in sub-section (1A), for the words "fifteen years", wherever they occur, the words "seventeen years" shall be substituted.

3. *Amendment of section 8.*—In section 8 of the principal Act, in sub-section (2A), in clause (c), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) secondly with effect from the date of expiry of five years, and thirdly with effect from the date of expiry of ten year, from the date on which the revision under sub-clause (i) takes effects."

ZAIL SINGH,
President.

Published in the *Gazette of India*, (Ext.), Part II, Section 1,
No 49, dated 5th June, 1985.

**THE TERRORIST AND DISRUPTIVE ACTIVITIES
(PREVENTION) AMENDMENT ORDINANCE, 1985.
ORDINANCE No. 4 OF 1985.**

Promulgated by the President in the Thirty-sixth Year of the Republic of India.

An Ordinance to amend the Terrorist and Disruptive Activities (Prevention) Act, 1985.

Whereas Parliament is not session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1985.

(2) It shall come into force at once.

2. *Application to Jammu and Kashmir and amendment of Act 31 of 1985.*—(1) The Terrorist and Disruptive Activities (Prevention) Act, 1985 (hereinafter referred to as the principal Act), to the extent it is not applicable immediately before the commencement of this Ordinance to the State of Jammu and Kashmir, is hereby applied to that State.

(2) In sub-section (2) of section 1 of the principal Act, the proviso shall be omitted.

ZAIL SINGH,
President.

Published in the *Gazette of India*, (Ext.), Part II, Section 1,
No. 72, dated 8th September, 1985.

**THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) ORDINANCE 1985.**

ORDINANCE No. 5 OF 1985

Promulgated by the President in the Thirty-sixth Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action :

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Representation of the People (Amendment) Ordinance, 1985**.

(2) It shall come into force at once

2. *Amendment of section 52 of Act 43 of 1951.*—In the Representation of the People Act, 1951, in section 52,—

(a) for the words “a candidate whose nomination has been found valid”, the words “a candidate who has been set up by a recognised political party and whose nomination has been found valid” shall be substituted ;

(b) for the words “if a contesting candidate dies”, the words “if a contesting candidate who has been set up by a recognised political party dies” shall be substituted ; and

(c) the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this section, a candidate shall be deemed to have been set up by a recognised political party if, and only if, he is deemed under the Election Symbols (Reservation and Allotment) Order, 1968 to have been so set up, and the provisions of that Order as in force immediately before the commencement of the Representation of the People (Amendment) Ordinance, 1985 shall be read as one with this section.”

ZAIL SINGH,
President.

Published in the *Gazette of India, (Ext.)*, Part II, Section 1, No. 32,
dated April 8, 1985.

**THE TEA COMPANIES (ACQUISITION AND TRANSFER OF
SICK TEA UNITS) ORDINANCE, 1985**
ORDINANCE NO. 5 OF 1985

Promulgated by the President in the Thirty-sixth Year of the Republic of India.

(Text omitted)

THE END

PART IV

RAJASTHAN ACTS, ORDINANCES & NOTIFICATIONS

1985

THE RAJASTHAN TENANCY (AMENDMENT) ACT, 1984

The following Act of the Rajasthan State Legislature received the assent of the Governor on 5th day of November, 1984 and was published in the *Rajasthan Gazette*, (Ext.), Part 4 (Ka), dated November 9, 1984.

RAJASTHAN ACT NO. 13 OF 1984

An Act further to amend the Rajasthan Tenancy Act, 1955.

Be it enacted by the Rajasthan State Legislature in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Rajasthan Tenancy (Amendment) Act, 1984**.

(2) Section 2 of this Act shall be deemed to have come into force on the 4th day of August, 1983 and Section 3 shall come into force at once.

2. *Amendment of Section 15-AAA, Rajasthan Act 3 of 1955.*—In Section 15-AAA of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), hereinafter referred to as the principal Act,—

(a) in sub-section (3), the expression “bearing a court fee of fifty paise being made”, the expression “being made, in such form and in such manner as may be prescribed” and for the expression “one year”, the expression “515 days” shall be substituted ;

(b) the existing Explanation to sub-section (3) shall be numbered as Explanation I thereof and in the Explanation I as so numbered, for the expression “making an application”, the expression “grant of khatedari rights”, shall be substituted ;

(c) after Explanation I as so amended, the following further Explanation shall be added, namely :—

“II. where there are two or more co-tenants in a holding on the date of commencement of the Rajasthan Tenancy (Amendment) Act, 1983, all such co-tenants shall, for the purpose of grant of khatedari rights with respect to the area of land for which no reserve price is to be charged, be deemed to be the sole tenant in that area of the holding.”;

(d) after sub-section (3) as so amended, the following sub-section shall be added, namely :—

“(4) Subject to such rule as may be made by the State Government, the reserve price payable under sub-section (3) may be paid by the tenant in sixteen equal instalments of which the first instalment shall be paid along with the application under the said sub-section and the remaining instalments shall, thereafter, be payable on the 1st day of January and 1st day of July of each succeeding year until the entire amount of reserve price is paid off :

Provided that where water from the Rajasthan Canal is released for irrigation for the first time, after the commencement of the Rajasthan Tenancy (Amendment) Ordinance, 1984 (5 of 1984), to the land in which khatedari rights are granted under sub-section (3), the first instalment of Rs. 500/- shall be paid within thirty days from the date of knowledge of the acceptance of the application under the said sub-section, and the remaining amount shall be payable in sixteen equal instalments on the first day of January and 1st day of July of each succeeding year, after the expiry of two years from the date of release of water to such land for irrigation.

Provided further that nothing in this sub-section shall preclude the tenant from making payment of the whole or part of the reserve price earlier than that provided in this sub-section.

(5) Notwithstanding anything contained in sub-section (3), where a tenant pays to the State Government the entire reserve price in one lump sum within the period allowed for making an application under that sub-section, the amount of reserve price payable by him shall be deemed to be 25% less than that provided therein.

(6) A tenant who fails to pay reserve price in accordance with sub-section (4) or sub-section (5) shall not be entitled to the grant of khatedari rights under sub-section (3).";

(e) the existing sub-section (4) shall be re-numbered as sub-section (7) thereof and in sub-section (7) as so re-numbered, for the expression "sub-section (5)", the expression "sub-section (8)" shall be substituted; and

(f) the existing sub-section (5) shall be renumbered as sub-section (6) thereof.

3. *Amendment of Section 42-A, Rajasthan Act 3 of 1955.*—In section 42-A of the principal Act, for the expression "one year", the expression "four years" shall be and shall be deemed always to have been substituted.

4. *Repeal and Savings.*—(1) The Rajasthan Tenancy (Amendment) Ordinance, 1984 (Ordinance No. 5 of 1984) and The Rajasthan Tenancy (Second Amendment) Ordinance, 1984 (Ordinance No. 6 of 1984) are hereby repealed.

(2) Notwithstanding such repeal, all things done or actions taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE RAJASTHAN CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1984

The following Act of the Rajasthan State Legislature received the assent of the Governor on 5th day of November, 1984 and was published in the *Rajasthan Gazette*, (Ext.). Part 4 (Ka), dated November 9, 1984.

RAJASTHAN ACT NO. 14 OF 1984

An Act to amend the Rajasthan Co-operative Societies Act, 1965.

Be it enacted by the Rajasthan State Legislature in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Rajasthan Co-operative Societies (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 21st day of July, 1984.

2. *Insertion of section 65-A, Rajasthan Act 13 of 1965.*—After section 65 of the Rajasthan Co-operative Societies Act, 1965 (Rajasthan Act 13 of 1965), the following new section shall be inserted, namely :—

“65-A. *Interest not to exceed principal.*—Notwithstanding anything contained in any agreement or in any other law for the time being in force, a society other than a Land Development Bank shall not charge by way of interest an amount exceeding that of the principal from a member taking short-term loan for a period not exceeding fifteen months or from a member initially taking such short-term loan but subsequently getting it converted into a medium-term loan on account of any natural calamity, irrespective of whether the loan was or is given before or after the commencement of the Rajasthan Co-operative Societies (Amendment) Act, 1984 subject, however, that the amount of such short-term loan including such portion thereof as has been converted into a medium-term loan does not exceed Rs 2,000/.”

3. *Repeal and Savings.*—(1) The Rajasthan Co-operative Societies (Amendment) Ordinance, 1984 (Ordinance No. 7 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, all things done or actions taken under the Rajasthan Co-operative Societies Act, 1965 (Rajasthan Act 13 of 1965), as amended by the said Ordinance, shall be deemed to have been done or taken under the said Act as amended by this Act.

THE RAJASTHAN COLONISATION (AMENDMENT) ACT, 1984

The following Act of the Rajasthan State Legislature received the assent of the Governor on 23rd day of October, 1984 and was published in the *Rajasthan Gazette*, (Ext.), Part 4 (Ka) dated November 7, 1984.

RAJASTHAN ACT NO. 12 OF 1984

An Act further to amend the Rajasthan Colonisation Act, 1954.

Be it enacted by the Rajasthan State Legislature in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Rajasthan Colonisation (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 4th day of May, 1984.

2. *Amendment of section 13, Rajasthan Act 27 of 1954.*—In section 13 of the Rajasthan Colonisation Act, 1954 (Rajasthan Act 27 of 1954), hereinafter referred to as the principal Act, for sub-sections (1) and (2), the following sub-sections and explanation shall be substituted, namely :—

“(1) No tenant shall, without the previous consent in writing of the State Government or an Officer of the State Government authorised by it in this behalf, to be given on the fulfilment of such conditions as may be prescribed, transfer his right or interest in land by way of sale, mortgage, exchange or gift or shall create a charge thereon or shall sub-let the same for more than five years except by way of exchange under section 12 or by way of mortgage or charge to the State Government or to a bank for the purpose of obtaining of financial assistance from any of them.

(2) A transfer or sub-lease made or charge created in contravention of sub-section (1) shall be void and if the transferee, sub-lessee or, as the

case may be, the charge-holder has obtained possession of the land transferred, sub-let or, as the case may be, charged or any part thereof, he shall, after an opportunity of being heard has been given to him and to the transferor, be liable to be ejected therefrom under the orders of the Collector and such land shall be resumed by the Collector to the State Government.

Explanation.—For the purpose of sub-section (1) of this section—

(a) the expression “bank” shall have the same meaning as is assigned to it by clause (d) of section 2 of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 (Rajasthan Act 22 of 1974) and shall include Land Development Banks specified in section 84 of the Rajasthan Co-operative Societies Act, 1965 (Rajasthan Act 13 of 1965) and such other bank or financial institution which the State Government may, by notification in the Official Gazette, specify as a bank for such purpose ; and

(b) the expression “financial assistance” shall have the same meaning as is assigned to it by clause (f) of section 2 of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 (Rajasthan Act 22 of 1974).”

3. *Substitution of section 13-A, Rajasthan Act 27 of 1954.*—For section 13-A of the principal Act, the following shall be and shall be deemed always to have been substituted, namely :—

“13A. *Validation of certain transfers and declaration of consent to transfer.*—(1) Notwithstanding anything contained in section 13, or in any other provisions of this Act or or in the rules made or statment of conditions issued thereunder, but subject to section 42 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), where any transfer or sub-lease has been made or any charge has been created by a tenant in whom khatedari rights have vested by or under this Act in contravention of sub-section (1) of section 13 at any time before the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, such transfer sub-lease or charge may, on an application being made to the Collector in this behalf in such Form as may be prescribed and within 514 days of such commencement by the transferor, lessor or, as the case may be, the person creating the charge or by the purported transferee, sub-lessee or as the case may be, charge-holder be declared, after holding such enquiry as he deems proper, as valid by him subject to any of such persons as aforesaid making payment to the State Government, in the case of irrigated land of an amount of Rs. 20,000/- per 25 bighas and in the case of barani and uncommand land of an amount of Rs. 4,000/- per 25 bighas or of an amount equal to the allotment price of the prescribed by the State Government in the statement of conditions issued under sub-section (2) of section 7 or in any rule made under this Act and in force on such commencement, whichever is less in four equal instalments falling due respectively on 31-12-1984, 30-6-1985, 31-12-1985 and 30-6-1986 by way of compounding fee :

Provided that where any of the aforesaid persons pays to the State Government the entire compounding fee in one lump-sum alongwith his application and within the period specified in this sub-section, the amount of compounding fee payable by him shall be deemed to be 25% less than that provided therein.

(2) Where on account of a transfer, sub-lease or charge having been made by a tenant in whom khatedari rights have vested by or under this Act in contravention of sub-section (1) of section 13, the Collector has passed an order for ejectment of the purported transferee, sub-lessee or as the case may be, the charge-holder or of any subsequent purported transferee, sub-lessee or, as the case may be, the charge-holder under sub-section (2) of the said section or the said section or for resumption of the tenancy of such tenant under clause (ii) of section 14, but any of such persons or such tenant as aforesaid has not actually been ejected from the land transferred, sub-let or, as the case may be, charged and the tenancy has not actually been resumed from the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, such tenant or any of such persons as aforesaid may at any time within 514 days of such commencement, apply to the Collector for declaring the transfer, sub-lease or, as the case may be, the charge by such tenant as valid under and in accordance with sub-section (1) and upon such declaration having been made, any of such persons as aforesaid shall not be liable to be ejected and the tenancy of such tenant shall not be liable to be resumed and the order of ejectment or resumption of tenancy, as the case may be, passed by the Collector shall be deemed to have been withdrawn.

(3) Notwithstanding any judgment, decree, order, direction or permission of any court, officer or authority, all cases, in which previous consent in writing of the Collector was not obtained under sub-section (1) of section 13 by a tenant in whom khatedari rights have vested by or under this Act for transferring or sub-letting such rights or, as the case may be, charging the same but subsequent consent as aforesaid for such transfer sub-letting or, as the case may be, charged had been obtained by him from the Collector or from any court, officer or authority or in which clause (i) of section 14 was applied by any of them to such transaction before the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, shall be re-opened by the Collector and shall be decided afresh by him in accordance with the section after giving notice to the transferor, lessor or, as the case may be, the person creating the charge, the purported transferee, sub-lessee or, as the case may be, the charge-holder and to every subsequent purported transferee, sub-lessee or, as the case may be, the charge-holder.

(4) Where compounding fee has been paid in accordance with this section, no action shall be taken or proceeded further against the purported transferee, sub-lessee or, as the case may be, charge-holder and no penalty shall be imposed on, and no resumption of tenancy shall be made of, the tenant in whom khatedari rights have vested or by under this Act, either under sub-section (2) of section 13 or under section 14, as the case may be, for the breach of the same condition of tenancy and arising due to the same contravention as aforesaid.

(5) Where a tenant mentioned in sub-section (1) or his purported transferee, sub-lessee or, as the case may be, charge-holder or any subsequent purported transferee, sub-lessee or, as the case may be, charge-holder has already obtained a declaration under that sub-section or under sub-section (2) or sub-section (3) after making payment to the State Government of the amount of compounding fee under this section as it stood prior to its substitution by the Rajasthan Colonisation (Amendment) Act, 1984, so much amount of the compounding fee as is in excess of the amount

of such fee specified in the proviso to sub-section (1), shall be refunded to such tenant or, as the case may be, to any of such persons who made the payment.

(6) Where,—

(a) any tenant in whom khatedari rights in land have vested by or under this Act has, before the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, contracted to transfer for consolidation such rights, or

(b) any tenant to whom khatedari rights in land have accrued before such commencement had, before accrual of such rights to him, contracted to transfer for consideration rights vested in him by or under this Act, by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty,

and the transferee has, before such commencement, in part performance of the contract taken possession of the land or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract,

and the transferee has paid the whole or part of the consideration to the transferor,

then the transferor or any person claiming under him and the transferee or either of them may make an application in such form as may be prescribed on or before the last day upto which an application can be made under sub-section (1) to the Collector for declaration that the consent required of the Collector under sub-section (1) of section 13 to transfer such rights be deemed to have been granted and if Collector, after making such enquiry as deem fit, is satisfied that the conditions as specified in this section and such other conditions as may be prescribed are fulfilled, he shall, subject to the transferor or the transferee making payment to the State Government of the amount calculated at the rate and in the manner specified in sub-section (1) by way of compounding fee, by order in writing declare that such consent to transfer such rights shall be deemed to have been granted to the transferor or any person claiming under him and upon such declaration being granted, the transferor shall, notwithstanding the fact that consent of the Collector was not obtained by him as required by sub-section (1) of section 13, be competent to transfer validly the land contracted to be transferred and in the event of the transferor refusing to do so or his whereabouts being not known, the transferee shall be competent to have the contract to transfer specifically enforced in accordance with the provisions of law relating to specific performance of contract for the time being in force.”

4. *Repeal and Savings.*—(1) The Rajasthan Colonisation (Second Amendment) Ordinance, 1984 (Ordinance No. 4 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, all things done or actions taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

**THE RAJASTHAN MUNICIPALITIES (VALIDATION OF
CONSTITUTION OF VIDYA VIHAR MUNICIPALITY
AND (AMENDMENT) ACT, 1984**

The following Act of the Rajasthan State Legislature received the assent of the Governor on the 5th day of November, 1984 and was published in the *Rajasthan Gazette, (Ext)*, Part 4 (Ka), dated November 4, 1984.

RAJASTHAN ACT NO. 15 OF 1984

An Act to amend the Rajasthan Municipalities Act, 1959 and also to validate the constitution and delimitation of the Vidya Vihar Municipality, Pilani and establishment and Composition of Vidya Vihar Municipal Board and its actions.

Be it enacted by the Rajasthan State Legislature in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—This Act may be called the **Rajasthan Municipalities (Validation of Constitution of Vidya Vihar Municipality and Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 25th day of August, 1984.

2. *Amendment of section 10, Rajasthan Act 38 of 1959.*—In sub-section (1) of section 10 of the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959), hereinafter referred to as the principal Act, between the words “not being a city which is” and the words “a hill station or”, the words “an educational centre or” shall and shall be deemed always to have been inserted and the word “similar” occurring between the words “or for other” and “exceptional reasons” shall be and shall be deemed always to have been elected.

3. *Validation of constitution and delimitation of Vidya Vihar Municipality, Pilani and of establishment and composition of Vidya Vihar Municipal Board, Pilani and its actions.*—(1) Notwithstanding—

(i) anything contained in any provision of the Rajasthan Town Municipalities Act, 1951 (Rajasthan Act 23 of 1951), hereinafter referred to as the said Act, or

(ii) the constitution, delimitation, establishment and composition, nomination of members and Chairman, rules or bye-laws made, proceedings started, appointment made, sanctions given actions taken, taxes levied and recovered, fines and penalties imposed or realised by or for and on behalf such board, its members or the Chairman, or

(iii) any thing contained in any judgment, decree or order of any court or tribunal,

it is hereby declared that the constitution and delimitation of Vidya Vihar Municipality, Pilani as promulgated under section 7 and notified under section 5 of the said Act and the establishment and composition, nomination of members and Chairman from time to time under the principal Act for its being an exception by way of being an educational centre shall be and shall be deemed always to have been valid and the said municipality and the said board shall exist and shall be deemed to be always validly existed as if the principal Act, as amended by this Act, had been in force at all material times.

(2) Accordingly—

(a) all functions performed, powers exercised or duties discharged by the said Board, members or Chairman thereof shall be and shall be deemed always to have been validly performed, exercised or discharged ; and

(b) all taxes levied and recovered, fines and penalties imposed and realised, rules or bye-laws made, proceedings started, appointments made, sanctions given, action taken and liabilities incurred by respect of or for or on behalf of the said Board, members or Chairman, as the case may be, shall be and shall be deemed always to have been validly levied, recovered, imposed realised, made, started, given or taken.

4. *Court not to question validity of certain acts and proceedings on the ground of defect in the constitution of Vidya Vihar Municipalities, Pilani and composition of its Board.*—No court shall question any action taken, things done, appointments and transfer made, powers exercised or purported to be exercised taxes levied and recovered by Vidya Vihar Municipality, Pilani and its members or Chairman or any officer or any competent authority in exercise of its statutory powers on the ground that the constitution of Vidya Vihar Municipality, Pilani or composition of its Board or nomination of members or Chairman thereof, was in any way defective and accordingly—

(a) no suit or other proceeding shall be maintained and continued in any court for refund of any tax levied and collected by Vidya Vihar Municipality, Pilani in exercise of the statutory powers under the principal Act or any other law for the time being in force ;

(b) any tax levied but not collected before the commencement of this Act may be recovered by the said municipality in accordance with law as if the said municipality and its Board was duly constituted and composed ; and

(c) all suits, appeals and other proceeding pending on the date of commencement of this Act, in any court for any relief on the ground that the constitution of Vidya Vihar Municipality, Pilani and its Board in any and its Board was in any way defective, shall upon the coming into force of this Act be dismissed.

5. *Repeal.*—The Rajasthan Municipalities (Validation of Constitution of Vidya Vihar Municipality and Amendment) Ordinance, 1984 (Ordinance No. 10 of 1984) is hereby repealed.

6. *Savings.*—(1) Notwithstanding the repeal of the Rajasthan Municipalities (Validation of Constitution of Vidya Vihar Municipality and Amendment) Ordinance, 1984 (Ordinance No. 10 of 1984) all things done or actions taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

(2) For removal of doubts, it is hereby declared that nothing contained in this Act, shall—

(a) render any person liable for an offence constituted by an act or omission which, but for the provisions of this Act, would be an offence under the principal Act or any law for the time being in force ; and

(b) entitle any person to claim refund of any tax, fee, duty, penalty or any charges lawfully levied and collected by Vidya Vihar Municipality, Pilani.

THE RAJASTHAN SALES TAX (AMENDMENT) ACT, 1984

The following Act of the Rajasthan State Legislature received the assent of the President on the 20th day of November, 1984 and was published in the *Rajasthan Gazette*, (Ext.), Part 4 (Ka), dated November 23, 1984.

RAJASTHAN ACT NO. 20 OF 1984

An Act further to amend the Rajasthan Sales Tax Act, 1954.

Be it enacted by the Rajasthan State Legislature in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the *Rajasthan Sales Tax (Amendment) Act, 1984*.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new section 2A in Rajasthan Act 29 of 1954.*—After section 2 of the Rajasthan Sales Tax Act, 1954 (Rajasthan Act 29 of 1954), hereinafter referred to as the principal Act, the following new section 2A shall be inserted, namely :—

“2A. *Sales Tax Tribunal.*—(1) The State Government shall constitute for the State of Rajasthan a Sales Tax Tribunal, hereinafter referred to as “the Tribunal”, consisting of a Chairman and as many members as it thinks fit, to exercise the powers and discharge the functions conferred on the Tribunal by this Act.

(2) The Tribunal shall, subject to any direction given by the State Government, sit at such place or places as it may deem fit.

(3) The State Government shall prescribe the qualifications of persons who shall be eligible for appointment as Chairman and member of the Tribunal, the method of their selection for appointment and conditions of their service.

(4) The constitution of the Tribunal shall not be deemed to be invalid solely on the ground of any vacancy occurring on account of death, resignation, expiry of time or termination of the appointment or temporary absence of the Chairman or of any member”.

3. *Amendment of section 13, Rajasthan Act 29 of 1954.*—In sub-section (4) of section 13 of the principal Act, for the expression “subject to the powers of revision conferred by section 14 and of any reference made to the High Court under section 15”, the expression “subject to the powers of appeal to the Tribunal conferred by section 14 and of any revision made to the High Court under section 15” shall be substituted.

4. *Substitution of section 14, Rajasthan Act 29 of 1954.*—For the existing section 14 of the principal Act, the following section shall be substituted, namely :—

“14. *Appeal to the Tribunal.*—(1) An appeal shall lie to the Tribunal against,—

(a) an order passed by the Commissioner under section 12-A or sub-section (1) of section 15-A ; or

(b) any order passed by an appellate authority disposing of an appeal against the following orders, namely :—

(i) an order of assessment or reassessment of tax,

(ii) an order rectifying the order of assessment or reassessment of tax,

- (iii) an order imposing a penalty,
- (iv) an order amending or cancelling or refusing to amend or cancel a registration certificate, or
- (v) an order holding a person liable to tax.

(2) The Commissioner may, if he objects to any order passed by the appellate authority in appeal against any of the orders specified in sub-clauses (i) to (v) of clause (b) of sub-section (1), direct any Commercial Taxes Officer or Assistant Commercial Taxes Officer to appeal to the Tribunal.

(3) An appeal under this section shall be filed, in a case under sub-section (2) within 180 days, and in any other case, within 90 days, of the date on which the order sought to be appealed against is communicated in writing.

(4) The Commercial Taxes Officer or the Assistant Commercial Taxes Officer or the dealer, as the case may be, on receipt of notice that an appeal against the order of the appellate authority has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within 30 days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the appellate authority, and such memorandum shall be disposed of by the Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by such fee as may be prescribed.”;

5. Insertion of new sections 14-B and 14-C in Rajasthan Act 29 of 1954.—After section 14-A of the principal Act, the following new sections shall be inserted, namely:—

“**14-B. Order of Tribunal.**—(1) The Tribunal shall, after giving both the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit.

(2) The Tribunal shall send a copy of the order passed under this section to the dealer and to the Commissioner.

(3) Save as provided in section 15, every order passed by the Tribunal in appeal shall be final.

14-C. Procedure of Tribunal.—(1) An appeal under section 14 shall, subject to such rules as may be made by the State Government in that behalf, be heard and disposed of,—

(a) by the Chairman or any member of the Tribunal sitting singly, or

(b) by a bench of the Tribunal, consisting of two or more members.

(2) Where members constituting the bench of the Tribunal are equally divided in opinion as to the order to be made in the case heard by

them, the case shall be referred to another member and decided in accordance with the opinion of the majority of the members including such other members who heard it.

(3) Notwithstanding that an appeal against an order has been preferred to the Tribunal, the tax, fee, penalty or interest shall be paid in accordance with the order against which appeal has been preferred :

Provided that the Tribunal may, on an application in writing from the dealer, stay the recovery of the disputed amount of the tax, fee, penalty or interest or any part thereof pending disposal of the appeal if the dealer furnishes sufficient security to the satisfaction of the assessing authority in such form and in such manner as may be prescribed :

Provided further that where recovery of tax, fee, penalty or interest has been stayed under the preceding proviso, the amount of the tax, fee or penalty or interest shall be recoverable with interest levied under section 11B on the amount ultimately found due, and such interest shall be payable on such amount from the date it became due.

(4) Save as otherwise provided in the first proviso to sub-section (3), the Tribunal shall not stay any proceedings pending disposal of appeal.

(5) The Tribunal shall, with the previous sanction of the State Government, make, by notification in the Official Gazette, regulations consistent with the provisions of this Act and the rules made thereunder for regulating its own procedure and the procedure of the benches thereof in all matters arising out of the exercise of its powers or the discharge of its functions :

Provided that until the regulations are made, the Tribunal shall, subject to the provisions of this Act and the rules framed thereunder, have power to regulate its own procedure and the procedure of the benches thereof in all matters arising out of the exercise of its powers and discharge of its functions.

(6) The Tribunal shall, for the purpose of exercising its powers and discharging its functions, have all the powers which are vested in the Assistant Commercial Taxes Officer, Commercial Taxes Officer, Appellate Authority and the Commissioner."

6. *Substitution of section 15, Rajasthan Act 29 of 1954.*—For the existing section 15 of the principal Act, the following section shall be substituted, namely :—

"15. *Revision by High Court in special cases.*—(1) Any person aggrieved by an order made by the Tribunal under section 14-B, may, within 90 days from the date of service of such order, apply to the High Court, in the prescribed form accompanied by the prescribed fee, for revision of such order on the ground that the case involves a question of law.

(2) The Commissioner may, if he objects to any order made by the Tribunal under section 14B, direct any Commercial Taxes Officer or Assistant Commercial Taxes Officer to apply to High Court for revision of such order on the ground that the case involves a question of law. An application under this sub-section shall be filed within 180 days of the date on which the order sought to be revised is communicated in writing to the Commissioner.

(3) The application for revision under sub-section (1) or sub-section (2) shall precisely state the question of law involved in the case, and

it shall be competent for the High Court to formulate the question of law to be raised.

(4) The High Court shall, after hearing the parties to the revision, decide the question of law involved therein, and shall thereupon pass such orders as are necessary to dispose of the case.

(5) The payment of the amount, if any, of tax, fee, penalty or interest due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application but if the amount of such tax, fee, penalty or interest is reduced or remitted as a result of the final order passed in such revision, the excess amount shall be refunded."

7. *Insertion of new section 15A, Rajasthan Act 29 of 1954.*—After section 15 of the principal Act as so substituted, the following new section shall be inserted, namely:—

"15A. *Revision by the Commissioner.*—(1) The Commissioner may call for and examine the record of any proceedings under this Act, and if he considers that any order passed therein by Commercial Taxes Officer or Assistant Commercial Taxes Officer is erroneous and is prejudicial to the State revenue, he may, after making or causing to be made such enquiry as he considers necessary, and after giving to the dealer a reasonable opportunity of being heard, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment.

(2) In the case of any order passed by an appellate authority under section 13, against which no appeal lies to the Tribunal under section 14, the Commissioner may, either of his own motion or on an application for revision by the person aggrieved by such order, call for the record of any proceedings under this Act in which any such order has been passed and may after making or causing to be made such enquiry as he considers necessary, and after giving the dealer or other person affected, a reasonable opportunity of being heard, pass thereon such order as he thinks fit.

(3) The Commissioner shall not revise any order under sub-section (1), or of his own motion under sub-section (2), if the order has been made more than three years previously.

Explanation.—In computing the period of limitation for the purpose of this sub-section, any period during which any proceeding under this section is stayed by an order of any competent authority or court shall be excluded.

(4) Notwithstanding anything contained in sub-section (3), an order in revision under this section may be passed at any time if such order has to be passed in consequence of, or to give effect to, any finding or direction contained in an order of the Tribunal, the High Court or the Supreme Court.

(5) An application for revision under sub-section (2) shall be made in the prescribed form accompanied by the prescribed fee within 60 days from the date on which the order in question was communicated in writing to the applicant :

Provided that Commissioner may, if he is satisfied that there was sufficient cause for not making the application within that period, admit an application made after the expiry of that period."

8. *Amendment of section 17, Rajasthan Act 29 of 1954.*—In section 17

of the principal Act, in sub-section (1) and (2), for the words "Board of Revenue", the word "Tribunal" shall be substituted.

9. *Amendment of section 19, Rajasthan Act 29 of 1954.*—In section 19 of the principal Act, for the words "Board of Revenue", the word "Tribunal" shall be substituted.

10. *Insertion of new section 23 C in Rajasthan Act 29 of 1954.*—After section 23 B of the principal Act, the following new section shall be inserted, namely:—

"23C. *Power to withhold refund in certain cases.*—Where an order given rise to refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and Commercial Taxes Officer or Assistant Commercial Taxes Officer is of the opinion that the grant of the refund is likely to adversely affect the State revenue the said Officer may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine."

11. *Amendment of section 24, Rajasthan Act 29 of 1954.*—In section 24 of the principal Act, for the words "Board of Revenue" wherever occurring the word "Tribunal" shall be substituted.

12. *Amendment of section 26, Rajasthan Act 29 of 1954*—In section 26 of the principal Act in sub-section (2) after clause (ff), the following clauses shall be inserted, namely:—

"(fff) (i) prescribing the qualification of persons eligible for appointment as Chairman and Members, the method of their selection for appointment and conditions of their service;

(ii) prescribing form and manner in which appeal to the Tribunal and cross-objections thereto shall be filed and verified;

(iii) prescribing the manner of hearing and disposal of appeals;

(iv) prescribing form and manner of furnishing security for stay of recovery;

(ffff) prescribing form of application for revision and memorandum of cross-objection and the fee payable in respect thereof;"

13. *Transitory provisions.*—(1) Any application or proceeding under section 14 of the principal Act, as it existed immediately before its substitution by this Act, pending immediately before such substitution for revising an order of the nature specified in section 14 of the principal Act as so substituted, shall stand transferred to the Tribunal and shall be disposed of as if it were an appeal under that section as so substituted.

(2) Where such application for revision has been filed and the period of limitation prescribed for its filing has not expired, an appeal under section 14 of the principal Act as so substituted may be filed within the period of limitation prescribed in section 14 of the principal Act as it stood before such substitution and shall be disposed of as if it were an appeal under the said substituted section.

(3) All other applications or proceedings pending immediately prior to such substitution of section 14 of the principal Act before the Board of Revenue, shall stand transferred to the Tribunal and disposed of by it as if it were the authority competent to decide such application or proceedings under section 14 of the principal Act as it existed before its substitution by this Act.

(4) Application other than those referred to in sub-section (2) which

could lie to the Board of Revenue, but for such substitution of section 14 of the principal Act, may be filed before the Tribunal within the time it could be filed before the Board and shall be disposed of by Tribunal in accordance with the provisions of the principal Act, as if it were the authority competent to decide such application under section 14 as it existed before its substitution by this Act,

(5) The provisions of section 15 of the principal Act as substituted by this Act shall apply to an application for revision transferred to, or filed before the Tribunal, and disposed of by it under sub-section (1) or sub-section (2), as the case may be, or to an application for rectification transferred to, or filed before, the Tribunal and disposed of by it under sub-section (3) or sub-section (4), as they apply to an order of the Tribunal disposing of an appeal under section 14 of the principal Act as substituted by this Act or rectifying a mistake apparent from the record under section 17 as amended by this Act.

(6) Any person aggrieved by an order of the Board made under section 14 or section 17 as it existed before the date of commencement of this Act, hereinafter referred to as the said date may within 120 days from the date of service of such order, if an application under sub-section (1) of section 15 or section 17 of the principal Act as they existed before the said date has not been filed, and the period of limitation has not expired, apply to the High Court for revision of such order under section 15 of the principal Act as substituted by this Act on the ground that the case involves a question of law.

(7) Any person aggrieved by an order of the Board of Revenue refusing to state the case under section 15 of the principal Act as it existed immediately before the said date, may, where the limitation for making an application to the High Court under sub-section (2) of section 15 as it stood immediately before the said date, has not expired likewise apply for revision to the High Court within a period of 90 days from the date of the communication in writing of such refusal.

(8) If the Board of Revenue has failed to dispose of an application under sub-section (1) of section 15 of the principal Act as it existed before the said date within the time prescribed therefor in that sub-section, the applicant may, within 90 days from the expiration of the time prescribed in that sub-section, apply to the High Court for revision.

(9) No application for revision under sub-sections (6) and (7) shall be entertained unless it is accompanied by a fee of Rs. 100/- provided that no such fee shall be necessary in the case of an application for revision by or on behalf of the Commissioner of Commercial Taxes.

(10) Every application for making reference to the High Court under sub-section (1) of section 15 of the principal Act as it existed immediately before the said date, pending before the Board of Revenue on the said date shall stand transferred to the High Court. Every such application upon being so transferred and every application under clause (b) of sub-section (2), or under sub-section (3A) of section 15 of the principal Act, as it existed immediately before the said date, pending before the High Court on the said date, shall be deemed to be an application for revision under section 15 of the principal Act as substituted by this Act and disposed of accordingly.

(11) Where the High Court has before the said date required the Board of Revenue to state the case and refer it to the High Court under sub-section (3) of section 15 of the principal Act, as it existed immediately before the said date, or has referred the case back to the Board to make such additions there to or alterations herein as directed by the High Court, the proceeding so pending before the Board on the said date shall be transferred to the Tribunal, and if the order of the High Court has not been transmitted to Board, it shall be transmitted to the Tribunal and the Tribunal shall, as soon as may be, comply with such requirement. Every reference so made and every reference made by the Board before the said date and pending before the High Court on the said date, shall be deemed to be an application for revision under section 15 of the principal Act as substituted by this Act and shall be disposed of accordingly.

Explanation.—For purposes of sub-sections (6) and (7), ‘any person’ includes the Commissioner or any Commercial Taxes Officer or Assistant Commercial Taxes Officer authorised by the Commissioner in this behalf.

14. *Power to remove difficulties.*—(1) The State Government may, for the purpose of removing difficulties, particularly in relation to the transition from the provisions of the principal Act as it existed immediately before its amendment by this Act to the provisions of the principal Act as amended by this Act, by order direct that the provisions so amended, shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission as it may deem to be necessary or expedient :

Provided that no such order shall be made after one year from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before the House of the State Legislature.

15. *Repeal and savings.*—(1) The Rajasthan Sales Tax (Amendment) Ordinance, 1984 (Ordinance No. 9 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, all things done or actions taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act amended by this Act.

THE RAJASTHAN GRAMDAN (AMENDMENT) ACT, 1984

The following Act of the Rajasthan Legislature received the assent of the Governor on 6th November, 1984, and was published in the *Rajasthan Gazette*, (Ext.), dated November 15, 1984.

RAJASTHAN ACT NO. 19 OF 1984

An Act further to amend the Rajasthan Act, 1971.

Be it enacted by the Rajasthan State Legislature in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the *Rajasthan Gramdan (Amendment) Act, 1984*.

(2) It shall be deemed to have come into force on the 23rd day of July, 1984.

2. *Amendment of section 26, Rajasthan Act 12 of 1971.*—Sub-section (4) of section 26 of the Rajasthan Gramdan Act, 1971 (Rajasthan Act 12 of 1971), hereinafter referred to as the principal Act, alongwith its Explanation

shall be omitted and sub-section (5) and (6) of the said section shall be re-numbered as sub-sections (4) and (5) respectively thereof.

3. *Amendment of section 27, Rajasthan Act 12 of 1971.*—After clause (d) of section 27 of the principal Act, the following clause shall be inserted, namely —

“(dd) land allotted by the Gram Sabha shall be cultivated personally by the Gramdan Kisan or by a member of his family.

Explanation.—For the purposes of this clause, the expression “member of his family” shall mean the husband or wife of the Gramdan Kisan, their dependent children and grand-children and wives of such children and grand children and the dependent widowed mother of a male Gramdan Kisan;”.

4. *Amendment of section 28, Rajasthan Act 12 of 1971.*—After clause (b) of section (1) of section 28 of the principal Act, the following clause shall be inserted, namely :—

“(b) contravenes the provisions of clause (dd) of section 27, or”

5. *Insertion of new Chapter VI-A in Rajasthan Act 12 of 1971.*—After Chapter IV of the principal Act, the following new Chapter VI-A shall be inserted, namely :—

“CHAPTER VI-A OPTING OUT OF GRAMDAN COMMUNITY

37A. *Declaration to opt out of Gramdan Community.*—(1) Any Gramdan Kisan, not being a minor, including those filing declarations under section 8 or 9 or those donating land under section 22 or 23 or those joining the Gramdan community under sub-section (3) of section 22 (hereinafter in this chapter all referred to as the eligible persons), may, on or after the expiry of a period of three years from the date of the notification under sub-section (1) of section 11, file a declaration in the prescribed form before the Collector of the district in which his Gramdan village is situate that he has decided to opt out of the Gramdan Community and request that his Gramdan village may be excluded from the purview of the provision of this Act.

(2) A declaration under sub-section (1) shall not be valid unless it is made—

(a) in the case of land held by two or more persons as co-Gramdan Kisans, by all such persons jointly ; and

(b) in the case of land under mortgage, by the mortgagor and the mortgagee jointly.

(3) A declaration under sub-section (1) may be made either individually or jointly.

(4) Where in a Gramdan village, more than 50% of eligible persons file declarations under sub-section (1), the Collector shall forward the declaration to the Sub-Divisional Officer having jurisdiction over the village for verification, inquiry and report.

(5) The Sub-Divisional Officer shall, on receipt of declarations from the Collector, convene a meeting of all eligible persons, at the Gramdan village itself, by causing individual notices to be served on such of them as have filed declarations under sub-section (1) and also by getting a public notice proclaimed by beat of drum in the village and by affixing a copy of public notice at some conspicuous part of the village about the date venue and time of the meeting. The Sub-Divisional Officer or, where the Chairman of the Gramdan Board, after due intimation of the inquiry to

him by the said officer, intends to be associated with the process of inquiry, the Sub-Divisional Officer duly associated by the nominee of such Chairman shall verify and ascertain by making such inquiry as he deems fit whether more than 50% of the eligible persons of the Gramdan village affirm having made declarations under the said sub-section. The Sub-Divisional Officer shall, after inquiry, forward the copy of the minutes of the meeting together with his reports and recommendations to the Collector.

(6) Where on receipt of the report of sub-Divisional Officer, the Collector is satisfied from the report and recommendations of the Sub-Divisional Officer that more than 50% of eligible persons of a Gramdan village have decided to opt out of the Gramdan Community and have requested for being excluded from the purview of the provisions of this Act, he may after consulting the Chairman of the Gramdan Board, by notification in the Official Gazette, make a declaration that the Gramdan village in respect of which the declarations under sub-section (1) have been made, shall cease to be Gramdan village and the Gramdan Kisans of that village shall cease to be governed by the provisions of this Act.

(7) The Collector shall also simultaneously send copies of the declaration to the State Government, Chairman of the Gramdan Board, President of the concerned Gram Sabha, Sub-Divisional Officer and the Tehsildar concerned.

(8) The Collector shall further send his recommendations to the State Government indicating the name of the Gram Panchayat in which the area of Gramdan village in respect of which declaration has been made by him under sub-section (6) should be included and the State Government shall act in this matter in accordance with the provisions contained in the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953).

37B. Consequences of declaration.—With effect from the publication of the declaration under sub-section (6) of section 37A by the Collector in the Official Gazette, the following consequences shall ensue, namely :—

(a) the Gramdan village in respect of which the declaration has been made shall cease to be such village ;

(b) the Gram Sabha of such Gramdan village, its executive committee and other committees shall stand dissolved ;

(c) the land held by a Gramdan Kisan as a result of allotment made to him or to his predecessor-in-title by the Gram Sabha under section 26 shall thereafter continue to be held by the donors thereof or their legal representatives, as the case may be, and they shall hold the land under the same rights and interest as they or their predecessor-in-interest had in it when the land had been donated by way of Gramdan under section 8 ;

(d) if out of any land donated as contribution by a holder of land under second proviso to section 8 and which formed part of land pool under section 25 any portion of land was subsequently allotted by the Gram Sabha to any landless person or group of landless persons under sub-section (3) of section 26, the same shall continue to remain with the allottees or their legal representatives, as the case may be, and they shall be deemed to be gair-khatedar tenants of these lands from the date the same were allotted to them and they will be entitled to become khatedar tenants in accordance with the provisions of any law or rules for the time being force ;

(e) so much of such contributed land as aforesaid which remained with the Gram Sabha in its land pool and was not allotted by it under sub-section (3) of section 26 immediately before the commencement of the Rajasthan Gramdan (Amendment) Act, 1984 shall vest in the State Government and the State Government shall utilise such land for such purposes and in such manner as may be prescribed ;

(f) the Tehsildar having jurisdiction shall cause the relevant revenue records to be amended in the prescribed manner.

37C. Assets and Liabilities.—(1) Upon the publication of the declaration under sub-section (6) of section 37A by the Collector, all the assets and liabilities of the Gram Sabha shall vest in the State Government and all dues payable or receivable by the Gram Sabha will be deemed to be payable to or receivable by the State Government.

(2) All dues payable to the Gram Sabha before such declaration will be recoverable by the State Government as arrears of land revenue.

(3) For purposes of ensuring that all the assets and liabilities, as well as dues payable to or receivable by the Gram Sabha are properly accounted for and all the assets and relevant documents are fully transferred to the State Government by the Gram Sabha, the sub-Divisional Officer having jurisdiction over the village shall act as liquidator.

(4) The President of Gram Sabha and members of executive committees and other Committees shall forthwith hand over charge in the prescribed manner of his or their office including all papers, documents and properties pertaining to the Gram Sabha in his or their actual possession or occupation to the liquidator.

(5) If any person fails or refusee to hand over charge of office including the papers, documents and properties as required under sub-section (4), the liquidator shall, by order in writing, direct the person so failing or refusing to hand over such charge to the liquidator or to the person authorised by him.

(6) If the person to whom a direction has been issued under sub-section (5) fails to comply with the directions, he shall, on conviction, be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one thousand rupees or with both.

(7) The liquidator may, without prejudice to any action that has been or may be taken under sub-section (5) or sub-section (6), for that purpose, invoke in the prescribed manner the assistance of the police or the nearest Magistrate having jurisdiction.

(8) The liabilities of the defunct Gram Sabha shall first be discharged by the liquidator by the sale of land which had remained in the land pool of Gram Sabha and which was not allotted by it.

(9) If all land of Gram Sabha pool had been allotted by the defunct Gram Sabha or if such land is not sufficient to discharge the liabilities, the pay and allowances of staff of such Gram Sabha shall be paid by charging rateable contribution from the Gramdan Kisan who have opted out from the Gramdan Community under the provisions of this Chapter.

(10) Liabilities incurred by individual Gramdan Kisans or other individual residents of the village prior to the issue of declaration by the Collector under sub-section (6) of section 37A shall continue to be their liability and shall be charged on the land held by them.

37D. Appeal and Revision.—(1) Any person aggrieved by an order of the liquidator may file an appeal within thirty days of the communication of the order to him to the Collector of the district having jurisdiction and the order of the liquidator shall, subject to the result of such appeal, be final.

(2) Any person who had filed a declaration under sub-section (1) of section 37A may file a revision to the State Government against refusal by the Collector to make a declaration under sub-section (6) of section 37A within thirty days of such refusal and the State Government may, after calling for the record and making inquiry, if necessary, pass such orders as it thinks fit and the order of the Collector shall be subject to the orders of the State Government in revision.

(3) The Gram Sabha or any other aggrieved person may file a revision to the State Government against the issue of declaration by the Collector under sub-section (6) of section 37A within thirty days of such declaration and the State Government may either confirm the order of the Collector or may pass such order as it may think fit and the order of the Collector making the declaration shall be subject to the orders of the State Government in revision.

37E. Transfer of area to Panchayats.—(1) When an area of a Gramdan village which has ceased to be such village under this Chapter is transferred by the State Government to any Panchayat, the State Government shall place at the disposal of the Panchayat, to whose jurisdiction such area has been transferred, such portion of the property and funds as it may deem fit.

(2) The President and executive members of defunct gram Sabha shall on inclusion of defunct Gramdan village be deemed to be additional Panchas of the Panchayat in which that village is included representing the area included until fresh elections are held.

(3) When the State Government transfers any land or building which was in the land pool of defunct Gram Sabha to a Gram Panchayat, the Gram Panchayat shall take it subject to all rights and liabilities pertaining to such lands and buildings."

6. Repeal and savings.—(1) The Rajasthan Gramdan (Amendment) Ordinance, 1984 (Ordinance No. 8 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, all things done or actions taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE RAJASTHAN SALES TAX (AMENDMENT) ORDINANCE, 1984

ORDINANCE NO. 9 OF 1984

The following Ordinance made and promulgated by the Governor on the 25th day of August, 1984 was published in the *Rajasthan Gazette*, (Ext.), Part, 4(Ga), dated August 25, 1984.

[Made and promulgated by the Governor on the 25th day of August, 1984.]

An Ordinance further to amend the Rajasthan Sales Tax Act, 1954.

Whereas, the Rajasthan Legislative Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for

him to take immediate action in this behalf ;

And whereas, previous instructions of the President have been obtained for the provisions requiring it ;

Now, therefore, in exercise of the powers conferred on him by clause (1) of Article 213 of the Constitution of India, the Governor of the State of Rajasthan is hereby pleased to make and promulgate in the Thirty-fifth year of Republic of India, the following Ordinance, namely :—

1. *Short title and commencement* —(1) This Ordinance may be called the **Rajasthan Sales Tax (Amendment) Ordinance, 1984.**

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new section 2A in Rajasthan Act 29 of 1954* —After section 2 of the Rajasthan Sales Tax Act, 1954 (Rajasthan Act 29 of 1954), hereinafter referred to as the principal Act, the following new section 2A shall be inserted, namely :—

“2A. *Sales Tax Tribunal.*—(1) The State Government shall constitute for the State of Rajasthan a Sales Tax Tribunal, hereinafter referred to as “the Tribunal”, consisting of a Chairman and as many members as it thinks fit, to exercise the powers and discharge the functions conferred on the Tribunal by this Act.

(2) The Tribunal shall, subject to any direction given by the State Government, sit at such place or places as it may deem fit.

(3) The State Government shall prescribe the qualifications of persons who shall be eligible for appointment as Chairman and member of the Tribunal, the method of their selection for appointment and conditions of their service.

(4) The constitution of the Tribunal shall not be deemed to be invalid solely on the ground of any vacancy occurring on account of death, resignation, expiry of time or termination of the appointment or temporary absence of the Chairman or of any member.”.

3. *Amendment of section 13, Rajasthan Act 29 of 1954.*—In sub-section (4) of section 13 of the principal Act, for the expression “subject to the powers of revision conferred by section 14 and of any reference made to the High Court under section 15”, the expression “subject to the powers of appeal to the Tribunal conferred by section 14 and of any revision made to the High Court under section 15” shall be substituted.

4. *Substitution of section 14 Rajasthan Act 29 of 1954.*—For the existing section 14 of the principal Act, the following section shall be substituted, namely :—

“14. *Appeal to the Tribunal.*—(1) An appeal shall lie to the Tribunal against,—

(a) an order passed by the Commissioner under section 12-A or sub-section (1) of section 15-A ; or

(b) any order passed by an appellate authority disposing of an appeal against the following orders, namely :—

(i) an order of assessment or reassessment of tax,

(ii) an order rectifying the order of assessment or reassessment of tax,

(iii) an order imposing a penalty,

(iv) an order amending or cancelling or refusing to amend or cancel a registration certificate, or

(v) an order holding a person liable to tax.

(2) The Commissioner may, if he objects to any order passed by the appellate authority in appeal against any of the orders specified in sub-clauses (i) to (v) of clause (b) of sub-section (1), direct any Commercial Taxes Officer or Assistant Commercial Taxes Officer to appeal to the Tribunal.

(3) An appeal under this section shall be filed, in a case, under sub-section (2) within 180 days, and in any other case, within 90 days, of the date on which the order sought to be appealed against is communicated in writing.

(4) The Commercial Taxes Officer or the Assistant Commercial Taxes Officer or the dealer, as the case may be, on receipt of notice that an appeal against the order of the appellate authority has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within 30 days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the appellate authority, and such memorandum shall be disposed of by the Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by such fee as may be prescribed."

5. *Insertion of new sections 14-B and 14-C in Rajasthan Act 19 of 1954.*—After section 14-A of the principal Act, the following new sections shall be inserted, namely:—

"14-B. *Order of Tribunal.*—(1) The Tribunal shall, after giving both the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit.

(2) The Tribunal shall send a copy of the order passed under this section to the dealer and to the Commissioner.

(3) Save as provided in section 15, every order passed by the Tribunal in appeal shall be final.

14-C. *Procedure of Tribunal.*—(1) An appeal under section 14 shall, subject to such rules as may be made by the State Government in that behalf, be heard and disposed of,—

(a) by the Chairman or any member of the Tribunal sitting singly, or

(b) by a bench of the Tribunal, consisting of two or more members.

(2) Where members constituting the bench of the Tribunal are equally divided in opinion as to the order to be made in the case heard by them, the case shall be referred to another member and decided in accordance with the opinion of the majority of the members including such other members who heard it.

(3) Notwithstanding that an appeal against an order has been preferred to the Tribunal, the tax, fee, penalty or interest shall be paid in accordance with the order against which appeal has been preferred :

Provided that the Tribunal may, on an application in writing from the dealer, stay the recovery of the disputed amount of tax, fee, penalty or interest or any part thereof pending disposal of the appeal if the dealer furnishes sufficient security to the satisfaction of the assessing authority in such form and in such manner as may be prescribed :

Provided further that where recovery of tax, fee, penalty or interest has been stayed, under the preceding proviso, the amount of the tax, fee, or penalty or interest shall be recoverable with interest levied under section 11B on the amount ultimately found due, and such interest shall be payable on such amount from the date it became due.

(4) Save as otherwise provided in the first proviso to sub-section (3), the Tribunal shall not stay any proceeding pending disposal of appeal:

(5) The Tribunal shall, with the previous sanction of the State Government, make by notification in the Official Gazette, regulations consistent with the provisions of this Ordinance and the rules made thereunder for its own procedure and the procedure of the benches thereof in all matters arising out of the exercise of its powers or the discharge of its functions :

Provided that until the regulations are made, the Tribunal shall, subject to the provisions of the principal Act and the rules framed thereunder, have power to regulate its own procedure and the procedure of the benches thereof in all matters arising out of the exercise of its powers and discharge of its functions.

(6) The Tribunal shall, for the purpose of exercising its powers and discharging its functions, have all the powers which are vested in the Assistant Commercial Taxes Officer, Commercial Taxes Officer, Appellate Authority and the Commissioner."

6. *Substitution of section 15, Rajasthan Act 29 of 1954.*—For the existing section 15 of the principal Act, the following section shall be substituted, namely :—

"15. *Revision by High Court in special cases.*—(1) Any person aggrieved by an order made by the Tribunal under section 14-B, may, within 90 days from the date of service of such order, apply to the High Court, in the prescribed form accompanied by the prescribed fee for revision of such order on the ground that the case involves a question of law.

(2) The Commissioner may, if he objects to any order made by the Tribunal under section 14B, direct any Commercial Taxes Officer or Assistant Commercial Taxes Officer to apply to the High Court for revision of such order on the ground that the case involves a question of law. An application under this sub-section shall be within 180 days of the date on which the order sought to be revised is communicated in writing to the Commissioner.

(3) The application for revision under sub-section (1) or sub-section (2) shall precisely state the question of law involved in the case, and it shall be competent for the High Court to formulate the question of law or to allow any other question of law to be raised.

(4) The High Court shall, after hearing the parties to the revision decide the question of law involved therein, and shall thereupon pass such orders as are necessary to dispose of the case.

(5) The payment of the amount, if any, of tax, fee, penalty or interest due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1), shall not be stayed pending the disposal of such application but if the amount of such tax, fee, penalty or interest is reduced or remitted as a result of the final order passed in such revision, the excess amount shall be refunded."

7. *Insertion of new section 15A, Rajasthan Act 29 of 1954.*—After section 15 of the principal Act as so substituted, the following new section shall be inserted, namely :—

"15A. *Revision by the Commissioner*—(1) The Commissioner may call for and examine the record of any proceedings under this Act, and if he considers that any order passed therein by Commercial Taxes Officer or Assistant Commercial Taxes Officer is erroneous and is prejudicial to the interest of the State revenue, he may, after making or causing to be made such enquiry as he considers necessary, and after giving to the dealer a reasonable opportunity of being heard, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment.

(2) In the case of any order passed by an appellate authority under section 13, against which no appeal lies to the Tribunal under section 14, the Commissioner may, either of his own motion or on an application for revision by the person aggrieved by such order, call for the record of any proceedings under this Act in which any such order has been passed and may after making or causing to be made such enquiry as he considers necessary, and after giving the dealer or other person affected, a reasonable opportunity of being heard, pass thereon such order as he thinks fit.

(3) The Commissioner shall not revise any order under sub-section (1), or of his own motion under sub-section (2), if the order has been made more than three years previously.

Explanation.—In computing the period of limitation for the purpose of this sub-section, any period during which any proceeding under this section is stayed by an order of any competent authority or court shall be excluded.

(4) Notwithstanding anything contained in sub-section (3), an order in revision under this section may be passed at any time if such order has to be passed in consequence of, or to give effect to, any finding or direction contained in an order of the Tribunal, the High Court or the Supreme Court.

(5) An application for revision under sub-section (2) shall be made in the prescribed form accompanied by the prescribed fee within 60 days from the date on which the order in question was communicated in writing to the applicant :

Provided that the Commissioner may, if he is satisfied that there was sufficient cause for not making the application within that period, admit an application made after the expiry of that period."

8. *Amendment of section 17, Rajasthan Act 29 of 1954.*—In section 17 of the principal Act, in sub-section (1) and (2), for the words “Board of Revenue”, the word “Tribunal” shall be substituted.

9. *Amendment of section 19, Rajasthan Act 29 of 1954.*—In section 19 of the principal Act, for words “Board of Revenue”, the word “Tribunal” shall be substituted.

10. *Insertion of new section 23C in Rajasthan Act 29 of 1954.*—After section 23B of the principal Act, the following new section shall be inserted, namely :

“23C. *Power to withhold refund in certain cases.*—Where an order giving rise to refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and Commercial Taxes Officer or Assistant Commercial Taxes Officer is of the opinion that the grant of the refund is likely to adversely affect the State revenue, the said Officer may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.”

11. *Amendment of section 24, Rajasthan Act 29 of 1954.*—In section 24 of the principal Act, for the words “Board of Revenue”, wherever occurring, the word “Tribunal” shall be substituted.

12. *Amendment of section 26, Rajasthan Act 29 of 1954* —In section 26 of the principal Act, in sub-section (2), after clause (ff), the following clauses shall be inserted, namely :—

“(fff) (i) prescribing the qualifications of persons eligible for appointment, as Chairman and Members, the method of their selection for appointment and conditions of their service ;

(ii) prescribing form and manner in which appeal to the Tribunal and cross-objections thereto shall be filed and verified ;

(iii) prescribing the manner of hearing and disposal of appeals ;

(iv) prescribing the form and manner of furnishing security for stay of recovery ;

(ffff) prescribing form of application for revision and memorandum of cross-objections and the fee payable in respect thereof ;”.

13 *Transitory provisions.*—(1) Any application or proceeding under section 14 of the principal Act, as it existed immediately before its substitution by this Ordinance, pending immediately before such substitution for revising an order of the nature specified in section 14 of the principal Act as so substituted shall stand transferred to the Tribunal and shall be disposed of as if it were an appeal under that section as so substituted.

(2) Where such application for revision has not been filed and the period of limitation prescribed for its filing has not expired, an appeal under section 14 of the principal Act as so substituted may be filed within the period of limitation prescribed in section 14 of the principal Act as it stood before such substitution and shall be disposed of as if it were an appeal under the said substituted section.

(3) All other applications or proceedings pending immediately prior to such substitution of section 14 of the principal Act before the Board of Revenue, shall stand transferred to the Tribunal and disposed of by it as if it were the authority competent to decide such application or proceedings under section 14 of the principal Act as if it existed before its substitution by this Ordinance.

(4) Applications other than those referred to in sub-section (2) which could lie to the Board of Revenue, but for such substitution of section 14 of the principal Act, may be filed before the Tribunal within the time it could be filed before the Board and shall be disposed of by the Tribunal in accordance with the provisions of the principal Act, as if it were the authority competent to decide such application under section 14 as it existed before its substitution by this Ordinance.

(5) The provisions of section 15 of the principal Act as substituted by this Ordinance shall apply to an application for revision transferred to, or filed before the Tribunal, and disposed of by it under sub-section (1) or sub-section (2), as the case may be, or to an application for rectification transferred to, or filed before the Tribunal and disposed of by it under sub-section (3) or sub-section (4), as they apply to an order of the Tribunal disposing of an appeal under section 14 of the principal Act as substituted by this Ordinance or rectifying a mistake apparent from the record under section 17 as amended by this Ordinance.

(6) Any person aggrieved by an order of the Board made under section 14 or section 17 as it existed before the date of commencement of this Ordinance, hereinafter referred to as the said date, may, within 120 days from date of service of such order, if an application under sub-section (1) of section 15 or section 17 of the principal Act as they existed before the said date has not been filed, and the period of limitation has not expired, apply to the High Court for revision of such order under section 15 of the principal Act as substituted by this Ordinance on the ground that the case involves a question of law.

(7) Any person aggrieved by an order of the Board of Revenue refusing to state the case under section 15 of the principal Act, as it existed immediately before the said date, may, where the limitation for making an application to the High Court under sub-section (2) of section 15 as it stood immediately before the said date, has not expired likewise apply for revision to the High Court within a period of 90 days from the date of communication in writing of such refusal.

(8) If the Board of Revenue has failed to dispose of an application under sub-section (1) of section 15 of the principal Act as it existed before the said date within the time prescribed therefore in that sub-section, the applicant may, within 90 days from the expiration of the time prescribed in that sub-section, apply to the High Court for revision.

(9) No application for revision under sub-sections (6) and (7) shall be entertained, unless it is accompanied by a fee of Rs. 100/-, provided that no such fee shall be necessary in the case of an application for revision by or on behalf of the Commissioner of Commercial Taxes.

(10) Every application for making reference to the High Court under sub-section (1) of section 15 of the principal Act as it existed immediately before the said date, pending before the Board of Revenue on the said date shall stand transferred to the High Court. Every such application upon being so transferred and every application under clause (b) of sub-section (2), or under sub-section (3A) of section 15 of the principal Act, as it existed immediately before the said date, pending before the High Court on the said date, shall be deemed to be an application for revision under section 15 of the principal Act as substituted by this Ordinance and disposed of accordingly.

(11) Where the High Court has before the said date required the Board of Revenue to state the case and refer it to the High Court under sub-section (5) of section 15 of the principal Act, as it existed immediately before the said date, or has referred the case back to the Board to make such additions thereto or alterations therein as directed by the High Court, the proceedings so pending before the Board on the said date shall be transferred to the Tribunal, and if the order of the High Court has not been transmitted to Board, it shall be transmitted to the Tribunal and the Tribunal shall, as soon as may be, comply with such requirement. Every reference so made and every reference made by the Board before the said date and pending before the High Court on the said date, shall be deemed to be an application for revision under section 15 of the principal Act as substituted by this Ordinance and shall be disposed of accordingly.

Explanation—For purpose of sub-sections (6) and (7), 'any person' includes the Commissioner or any Commercial Taxes Officer or Assistant Commercial Taxes Officer authorised by the Commissioner in this behalf.

14. Power to remove difficulties.—(1) The State Government may, for the purpose of removing difficulties, particularly in relation to the transition from the provisions of the principal Act, as it existed immediately before its amendment by this Ordinance to the provisions of the principal Act as amended by this Ordinance by order direct that the provisions so amended shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission as it may deem to be necessary or expedient :

Provided that no such order shall be made after one year from the date of commencement of this Ordinance.

(2) Every order made under clause (1) shall be laid before the House of the State Legislature.

THE RAJASTHAN APPROPRIATION (NO. 1) ACT, 1985

Published in the *Rajasthan Gazette*, (Ext.), Part 4 (Ka), dated March 28, 1985

RAJASTHAN ACT NO. 1 OF 1985

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State for the Services of the financial year 1984-86 ending on the 31st day of March, 1985.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India, as following :—

1. *Short title.*—This Act may be called the **Rajasthan Appropriation (No. 1) 1985.**

(Text omitted)

THE RAJASTHAN APPROPRIATION (VOTE ON ACCOUNT) (NO. 2) ACT, 1985

Published in the *Rajasthan Gazette*, (Ext.), Part 4 (Ka), dated March 29, 1985

RAJASTHAN ACT NO. 2 OF 1985

An Act to authorised payment and apuroprlation of certain sums from and out of the Consolidated Fund of the State for the Services of a part of the financial Year, 1985-86.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be cited as the Rajasthan Appropriation (Vote on Account) (No. 2) Act, 1985
(Text omitted)

THE RAJASTHAN APPROPRIATION (NO. 3) ACT, 1985

Published in the *Rajasthan Gazette*, (Ext.), Part IV (Ka), dated March 29, 1985

RAJASTHAN ACT NO. 3 OF 1985

An Act to authorise the appropriation of certain further sums from and out of the Consolidated Fund of the State for the Services of the financial year 1978-79 ending on the 31st March, 1979 in excess of the amounts granted for those services and for that year.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1 *Short title.*—This Act may be cited as the Rajasthan Appropriation (No. 3) Act, 1985.

(Text omitted)

THE RAJASTHAN CANAL (SUBSTITUTION OF NAME) ACT, 1985

The following Act received the assent of the Governor on the 11th day of April, 1985 and was published in the *Rajasthan Gazette*, (Ext.), Part IV (Ka), dated April 11, 1985.

RAJASTHAN ACT NO. 4 OF 1985

An Act to substitute the name of "Indira Gandhi Canal" for the name "Rajasthan Canal" in various laws, rules, orders, documents, etc.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1 *Short title and commencement.*—(1) This Act may be called the Rajasthan Canal (Substitution of Name) Act, 1985.

(2) It shall be deemed to have come into force on the 9th day of November, 1984.

2. *Substitution of name of the Rajasthan Canal.*—For the expression "Rajasthan Canal", wherever and in whatever manner used, the expression "Indira Gandhi Canal" shall be—

(i) substituted in all laws, rules, regulations, bye-laws, orders, notifications and statements of conditions for the time being in force; and

(ii) read and construed accordingly in all instruments, agreements, contracts, indentures, sanads, lease-deeds, all other documents and pending proceedings.

3. *Repeal and Savings.*—(1) The Rajasthan Canal (Substitution of Name) Ordinance, 1984 (Ordinance No. 11 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, all things done or actions taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

(3) Notwithstanding anything in this Act shall affect the liabilities incurred, duties performed, obligations created, titles conferred, rights accrued, actions taken, functions performed, appointments made, or tax

or fee levied or realised by any person or authority in respect of matters relating to Rajasthan Canal because of the substitution of its name.

THE RAJASTHAN EXCISE (AMENDMENT) ORDINANCE, 1985.

The following Ordinance was made and promulgated by the Governor on the 4th day of May, 1985 and was published in the *Rajasthan Gazette* (Ext.), Part IV (Kha), dated May 4, 1985.

ORDINANCE NO. 1 OF 1985

[Made and promulgated by the Governor on the 4th day of May, 1985].

An Ordinance further to amend the Rajasthan Excise Act, 1950.

Whereas the Rajasthan Legislative Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action in this behalf ;

Now, therefore, in exercise of the powers conferred upon him by clause (1) of Article 213 of the Constitution of India, the Governor of the State of Rajasthan is pleased to make and promulgate in the Thirty sixth Year of the Republic of India, the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Rajasthan Excise (Amendment) Ordinance, 1985**

(2) It shall come into force atonce.

2. *Insertion of new Clause (17-A) in section 3, Rajasthan Act 2 of 1950.*—After clause (17) of Section 3 of the Rajasthan Excise Act 1950 (Rajasthan Act 2 of 1950), hereinafter referred to as the principal Act, the following new clause (17-A) shall be inserted, namely :—

“(17-A) “Molasses” means the mother liquor produced in the final stage of the manufacture of sugar or khandsari sugar by the vacuum pan process or open pan process from sugar cane or gur.”

3. *Amendment of Section 41, Rajasthan Act 2 of 1950.*—In clause (d) of sub-section (2) of section 41 of the principal Act, after the expression “excisable article”, the expression “or molasses” shall be added.

O. P. MEHRA,
Governor of Rajasthan.

Published in the *Rajasthan Gazette* (Ext.). Part IV (Ga), dated
March 7, 1985

GENERAL ADMINISTRATION (Gr. II) DEPARTMENT

C. S. R. 94.—(*Jaipur, February 16, 1985*).—In exercise of the powers conferred under section 13 of the Rajasthan Premises (Requisition and Eviction) Ordinance, 1919, the State Government hereby makes the following amendments in the **Rajasthan Premises (Requisition and Eviction) Rules, 1976**, namely :—

AMENDMENT

In the said rules—

1. In rule 4 :—

(a) the bracket and figure “(1)” occurring after the heading shall be deleted;

(b) in the end, the expression “provided that :—” shall be deleted and after the expression “possession of the premises” the mark “;” shall be inserted.

(c) Above the clause "(i)" the expression "provided that :—" shall be inserted separately.

2. In rule 8 :—

(a) in sub clause (iii) of clause (a) for the expression "by post" the expression "by registered A. D. post" shall be substituted.

(b) in clause (b) the word "an" after the word "or" and before the word "order" shall be inserted.

Published in the *Rajasthan Gazette (Ext.)*, Part IV (Ga), dated May 1, 1985.

FINANCING (Gr. IV) DEPARTMENT

S. O. 22.—(*Jaipur, May 1, 1985*)—In pursuance of sub-section (2) of Section 1 of the **Rajasthan Sales Tax (Amendment) Act, 1984** (Rajasthan Act No 20 of 1984), the State Government hereby notifies that the afore-said Act No. 20 of 1984 shall come into force with effect from first May, 1985.

Published in the *Rajasthan Gazette, (Ext.)*, Part IV (Ga), dated August 22, 1984.

FINANCE (Gr. IV) DEPARTMENT

G.S.R. 32.—(*Jaipur, August 22, 1984*)—In exercise of the powers conferred by section 26 of the Rajasthan Sales Tax Act, 1954 (Rajasthan Act 29 of 1954), the State Government hereby makes the following rules further to amend the Rajasthan Sales Tax Rules, 1955 and orders, with reference to proviso to sub-section (4) of the said section, that previous publication of these rules is dispensed with as the State Government is satisfied that the circumstances exist which render it necessary to take immediate action :—

THE RAJASTHAN SALES TAX (AMENDMENT)

RULES, 1984

1. (a) These Rules may be called the **Rajasthan Sales Tax (Amendment) Rules, 1984**

(b) They shall come into force at once.

2. In the fifth proviso to sub-rule (3) of rule 25 of the Rajasthan Sales Tax Rules, 1955, herein after referred to as the said rules, between the expression "new dealer" and "obtaining registration" the words "who is a manufacturer or an importer or a dealer with a total monthly tax liability of not less than Rs. 250 under the Rajasthan Sales Tax Act, 1954 (Act 29 of 1954) and the Central Sales Tax Act, 1956 (Central Act 74 of 1956) according to his own accounts" shall be inserted.

3. In rule 28-B of the said rules,—

(a) in sub-rule (1), for the expression "rupees fifty thousand", the expression "rupees one lakh" shall be substituted; and

(b) in sub-rule (3), for the expression "Rs 50,000", the expression "one lakh" shall be substituted.

4. In rule 44-A of the said rules, for the expression "Rs. 200,00" the expression "Rs. 1,000" shall be substituted.

5. In sub-rule (1) of rule 67 of the said rules, for the expression "Rs. 10,000", the expression "Rs. 25,000" shall be substituted.

Published in the *Rajasthan Gazette, (Ext.)*, Part IV (Ga), dated May 1, 1985.

FINANCE (Gr. IV) DEPARTMENT

G S.R. 6.—(*Jaipur, May 1, 1985*).—In exercise of the powers conferred by Section 26 of the Rajasthan Sales Tax Act, 1954 (Rajasthan Act 29 of 1954) the State Government hereby makes the following rules further to

amend the Rajasthan Sales Tax Rules, 1955 and orders with reference to proviso to sub-section (4) of the said section that previous publication of these Rules is dispensed with as the State Government is satisfied that circumstances exist which render it necessary to take immediate action, namely:—

1. *Short title and commencement.*—(1) These Rules may be called the **Rajasthan Sales Tax (Amendment) Rules 1985.**

(2) It shall come into force at once

2. *Amendment Rule 2, Rajasthan Sales Tax Rules, 1985.*—(1) In Rule 2 the following new clauses (f), (k) and (l) shall be inserted in the Rajasthan Sales Tax Rules, 1955 and after such insertion in Rule 2 the existing clauses (c) to (j) shall be re-numbered as under:—

- (i) For the Clause (g) shall be read as clause (d),
- (ii) For the Clause (c) shall be read as clause (e),
- (iii) For the Clause (d) shall be read as clause (f),
- (iv) For the Clause (e) shall be read as clause (g),
- (v) For the Clause (h) shall be read as clause (i),
- (vi) For the Clause (i) shall be read as clause (j), and
- (vii) For the Clause (j) shall be read as clause (l).

(2) In Rule 2, after insertion and renumbering, the clauses (c), (h) and (k), shall be as follows:—

- (c) “Chairman” means the Chairman of the Rajasthan Sales Tax Tribunal appointed by the State Government and includes a member holding charge of the Chairman.
- (h) “Registrar” means the Registrar of the Rajasthan Sales Tax Tribunal appointed by the State Government and includes any other officer with respect to such functions and duties of the Registrar as may be assigned to him as such officer by the Chairman.
- (k) “Tribunal” means the Rajasthan Sales Tax Tribunal constituted under Section 2A of the Rajasthan Sales Tax Act, 1954.”

3. *Insertion of new Chapter III and Rule 7 in the Rajasthan Sales Tax Rules, 1955*—After the existing Rule 6 of the Rajasthan Sales Tax Rules, 1955, the following new Chapter III and Rule 7 shall be inserted in the Rajasthan Sales Tax Rules, 1955, namely,—

“CHAPTER III

Sales Tax Tribunal, its headquarter, sitting of Benches, Constitution and conditions of service

7. (1) The headquarter of the Tribunal shall be at Ajmer.

(2) Any Bench of the Tribunal shall hold its sitting at its headquarter or at such place or places as may be considered fit by the Chairman subject to any direction given by the State Government.

(3) The Chairman shall be competent to transfer a pending appeal one Bench to another Bench.

(4) The Tribunal shall consist of the Chairman, two or more members for this proper discharge of the functions and duties conferred upon it under the Act.

(5) The Chairman shall be a member of the Supertime scale of the Indian Administrative Service equivalent in status and rank to the Chairman, Board of Revenue, Rajasthan.

(6) One member of the Tribunal shall be appointed out of the member of Rajasthan Higher Judicial Service being one of the senior Dis-

strict and Sessions Judges or shall be an eminent Advocate fit to be appointed as a Judge of the Rajasthan High Court.

(7) One member having sufficient experience in matters of Commercial Taxes shall be appointed from out of the members of the Selection-grade/Supertime scale of the Indian Administrative Services or from selection grade of the Rajasthan Administrative Service or from the selection grade of the Rajasthan Commercial Taxes Service.

(8) The Chairman or a member of the Tribunal shall be appointed initially for a period of not more than three years and he shall not continue on such post after attaining the age of fifty-eight years.

(9) The functions of the Tribunal under the Act and Rules may be discharged by any of the members sitting either singly, or in a Bench of two or more members as may be constituted by the Chairman, consistent with the provisions of the Act and Rules.

(10) If the members of the Bench of the Tribunal are equally divided in opinion as to the order to be made in the case heard by them, they shall state the point or points to the Chairman on which they differ and the case shall be referred by the Chairman for hearing on such point or points to one or more of the other members of the Tribunal including himself; and such point or points shall be determined according to the majority of the members of the Tribunal who heard the case initially or subsequently.

(11) There shall be a Registrar of the Tribunal who shall perform such duties and exercise such powers as may be assigned to him by the Chairman.

(12) The members of the Tribunal shall draw monthly salary and allowances as admissible to an officer of Indian Administrative Service of the rank of members of the Board of Revenue, Rajasthan.

4. *Amendment of Rule 37.*—In the heading of and in the aforesaid Rule 37 of the Rajasthan Sales Tax Rules, 1955, for the expression “revisional or special appellate” the expression “or revisional” and after the words ‘in appeal’ and before the words ‘has the effect’ for the expression ‘revision or special appeal’ the expression “under section 13 or 14B or a revisional order passed under section 15 or 15A” shall be substituted.

5. *Substitution of Rule 39.*—For the existing Rule 39 the following Rule shall be substituted, namely—

“39. *Application for appeal before the Tribunal.*—(1) An application for appeal before the Tribunal under section 14 shall be in form S. T. 9.

(2) A memorandum of cross-objections under sub-section (4) of of section 14 shall be in form S. T. 9-A.

(3) An application for appeal under section 14 in respect of the following cases shall be heard and disposed of by a bench of the Tribunal consisting of two or more members,—

(i) application for appeal against an order passed by the Commissioner under section 12-A, or under sub-section (1) or sub-section (2) of section 15-A ;

(ii) application for appeal involving classification of goods for the purpose of rate tax or exemption from tax ; and

(iii) application for appeal where the disputed amount of tax or penalty or both involved is Rs. 20,000/- or more.

Explanation—Miscellaneous applications connected with cases mentioned in clauses (i) to (iii) above are included in these categories.

(4) All other applications of appeal not covered by sub-rule (3) may be heard and disposed of by the Chairman or any member of the Tribunal sitting singly.

6. *Insertion of new rule 39-A.*—After Rule 39 in the said Rules, the following Rule shall be inserted, namely :—

“39-A. *Application for Revision.*—(1) An application for revision to the High Court under sub-section (1) or sub-section (2) of section 15 shall be in form S. T. 9B.

(2) An application for revision to the Commissioner under sub-section (2) of section 15-A shall be in form S. T. 9C.”

7. *Amendment of Rule 40.*—In the heading of the existing Rule 40, for the word “revisions”, the expression “appeal to the Tribunal” and for the word “revision” wherever occurring in the aforesaid rule the expression “appeal to the Tribunal” shall be substituted.

8. *Substitution of Rule 41.*—In the Rajasthan Sales Tax Rules, 1955, the existing Rule 41 shall be substituted by the following, namely :—

“41. *Dismissal for default of an application for appeal or application for revision under section 15-a.*—(1) Where the appellant or applicant for revision under section 15-A does not appear on the date fixed for hearing, the appellate or revising authority as the case may be, may dismiss the appeal or application for default.

(2) An appeal of application dismissed under sub-section (1) shall be restored if the appellant or applicant makes an application for that purpose within 30 days of the date of dismissal and satisfies the appellate or revising authority, as the case may be, that he was prevented by the sufficient cause from appearing on the date fixed for hearing and such restoration may be unconditional or on such conditions as the appellate or revising authority may deem reasonable in the circumstances of each case including conditions as to the payment of costs to the State.”

9. *Omission of Rule 41-A.*—The existing Rule 41-A of the said Rule shall be omitted.

10. *Amendment of Rule 59.*—In clause (iii) of sub-rule (3) of the said Rule for the words “Board of Revenue” the word “Tribunal” shall be substituted.

11. *Amendment of Rule 60-A.*—In clause (b) of sub-rule (2) of the said rule for the words “Board of Revenue” the word “Tribunal” shall be substituted.

12. *Amendment of Rule 64.*—(i) In Rule 64 under column 2 at S. No. 1 (a) the expression “and special appeal under section 14 (14A)” shall be deleted.

(ii) In Rule 64 under column 2 at Serial No. 1 (b) for the expression “revision under section 14(2)” the expression “appeal under section 14” shall be substituted.

(iii) In Rule 64 after serial number 1 (b) a new entry “(bb)” shall be inserted namely,—

“(bb) Application for Revision under section 15 A(2)	Three percent of the amount in dispute calculated to nearest rupee subject to the minimum of Rs. 30/- and the maximum of Rs. 100/-.”
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(iv) In Rule 64 under column 2 at Serial No. 1(c) for the expression “reference” the expression “revision under section 15” shall be substituted.

(v) In Rule 64 Serial No. 3 (b) for the words "Board of Revenue" the word "Tribunal" shall be substituted.

13. *Amendment of Rule 67 A.*—(i) In the heading of and in the said rule, for the expression "(5) of section 14" the expression "(3) of section 14C" shall be substituted.

(ii) In the said rule, for the word "Board" the word "Tribunal" shall be substituted.

14. *Amendment of Rule 67 B.*—In the said rule for the expression "(5) of section 14", the expression "(3) of section 14C" shall be substituted.

15. Form S. T. 9 appended to the existing rules shall be substituted by the following form S. T. 9.

FORM S. T. 9

[See Rule 39 (1)]

Form of application for appeal to the Tribunal.

Appeal No. _____ of _____
_____ Versus _____

Appellant

Respondent

In the Rajasthan Sales Tax Tribunal, Ajmer.

Ref:—Appeal under section 14 of the Rajasthan Sales Tax Act.

1. Name(s) of the appellant(s)
2. Address to which notice may be sent to appellant(s) and the respondent(s)
- (A) Appellant(s)
- (B) Respondent(s)
3. Authority passing the order in dispute
- 4. Date of order appealed against
5. Period of assessment From.....to
6. Original or certified copy alongwith one true copy of the order appealed against is attached.
7. Relief claimed in appeal before the tribunal—
 - (a) If turnover/aggregate of purchase price is disputed
 - (i) Disputed turnover/aggregate of purchase prices.
 - (ii) Tax due on the disputed turnover/aggregate of purchase prices
 - (b) If rate of tax is disputed—
 - (i) Turnover/aggregate of purchase prices involved
 - (ii) Amount of tax disputed
 - (c) If the order of penalty/interest is disputed—
 - (i) Section under which penalty/interest imposed

- (ii) Amount of penalty in dispute
 (iii) Amount of interest in dispute
 (d) Any other relief claimed
 8. Grounds of appeal to the Tribunal

VERIFICATION

The appellant(s).....named above does/do hereby declare :—

(i) that the said order is not appealable under section 13 of the the R. S. T. Act ;

(ii) that no appeal from the said order is pending ; and

(ii) that what is stated herein is true to the best of his/her/their knowledge & belief.

Verified to the day of 19.....

.....
 Signed Signed

(Authorised representative, if any)

(Appellant)

Notes—(1) The application of appeal must be in triplicate and should be accompanied by two copies of the order appealed against and two copies of the relevant order of the Assessing Authority.

(2) The number and year of appeal will be filled in the office of the Tribunal.

(3) If the space provided is found insufficient separate enclosures may be used for the purpose.

16. After the Form S. T. 9 so substituted, in the said Rules, following new forms S. T. 9A, S. T. 9B and S. T. 9C shall be inserted, namely.—

FORM S. T. 9A

[See Rule 39(2)]

Form of memorandum of cross-objections to the Tribunal Cross-Objection No.....of.....19.....

In Appeal No.....of.....19.....

..... Versus
 (Appellant) (Respondent)

In the Rajasthan Sales Tax Tribunal,
 Ajmer.

Ref.—Memorandum of Cross-Objection under sub-section (4) of section 17 of R. S. T. Act.

1. Appeal No. allotted by the Tribunal to which memorandum of Cross objections relates

2. Name of the appellant(s)

3. Addresses to which notices may be sent to the cross-objector and appellant(s).

(i) Cross-objector.

(ii) Appellant.

4. Date of receipt of notice of appeal filed by the appellant to the Tribunal

5. Period of assessment in connection with which the memorandum of Cross-objections is preferred
6. Relief claimed in the memorandum of Cross-objections
- (a) If turnover/aggregate of purchase price is disputed
- (i) Disputed turnover/aggregate of purchase prices
- (b) If rate of tax is disputed—
- (i) Turnover/aggregate of purchase price involved
- (ii) Amount of tax disputed
- (c) If the order of penalty/interest is disputed—
- (i) Section under which penalty interest imposed
- (ii) Amount of penalty in dispute
- (iii) Amount of interest in dispute
- (d) Any other relief claimed
7. Grounds of Cross-objections—

VERIFICATION

I,....., the respondent, do hereby declare that what is stated above is true to the best of my knowledge and belief.

Verified today.....day of.....19.....

(Signed)
Authorised Representative,
if any

(Signed)
Respondent Cross-objector

Notes.—(1) The memorandum of Cross-objections must be in triplicate.

(2) The number and year of Cross-objections will be filled in the office of the Tribunal-

(3) The number and year of appeal as allotted by the office of the Tribunal and appearing in the notice of appeal received by the respondent is to be filled in by the respondent.

(4) If the space provided is found in sufficient separate enclosure may be used for the purpose.

FORM S. T. 9B

[See Rule 39A (1)]

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR/JAIPUR BENCH, JAIPUR.

Sales Tax Revision Application No.....of.....19.....

..... Versus

(Petitioner)

(Respondent)

Revision Application under section 15 (1)/(2) of the Rajasthan Sales Tax Act, 1954.

To,

The Hon'ble Shri.....Chief Justice and his other companion Judges of the Hon'ble High Court of Judicature for Rajasthan at Jodhpur/Jaipur Bench, Jaipur.

MAY IT PLEASE YOUR LORDSHIPS.

The petitioner respectfully submits the following :

(1) That the appeal No of.....19.....

In the matter of Versus.....

(Appellant)

(Respondent)

.....was decided by the.....

Bench of the Tribunal on.....

(2) That the copy of order passed by the Tribunal under section 14B (1) of the R. S. T. Act 1954 was received by the petitioner on.....

(3) That the brief facts of the case which are admitted and/or found by the Tribunal and which are necessary and from which questions of law has been formulated are enclosed alongwith relevant copies of the order of assessing authority dated....., relevant order of Dy. Commissioner (Appeals) dated.....and the copy of the order of the Tribunal in question dated.....

(4) That the following question of law arise out of the said order of the Tribunal :

(i)

(ii)

(iii)

(5) That the petitioner, therefore prays under sub-section (1)/(2) of section 15 of the R. S. T. Act that this application may be accepted and the question mentioned in para 4 above or such question as this Hon'ble court thinks just and proper, may be decided.

Humble Petitioner

Name.....

Designation.....

Notes :—1. The number and year of the Revision application to be filled in by the office of the Registrar, Rajasthan High Court.

2. If the space provided is found insufficient separate enclosures may be used for the purpose.

AFFIDAVIT

I.....aged.....years S/o.....do hereby take oath (or solemnly affirm) and state as under :—

1. That I am well acquainted with the facts of the case and, therefore, competent to swear this affidavit.

2. that I carefully gone through the revision application which is being filed herewith.

3. that the contents of paras 1 to 5 of the application are true to the best of my knowledge and belief.

4. that no such revision application has been filed in this Hon'ble High Court prior to the present application.

(Signed)

Deponent.

FORM S. T. 9C

[See Rule 39 [A (2)]]

Form of application for Revision to the Commissioner
Revision No _____ of _____

_____ (Petitioner)	Versus	_____ (Respondent)
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To,

The Commissioner,
Commercial Taxes,
Rajasthan,
Jaipur.

Ref:—Revision under sub-section (2) of section 15A of R. S. T. Act, 1954.

- | | |
|---|-------|
| (1) Name of the Petitioner | _____ |
| (2) Address to which notices may be sent to the petitioner(s) and respondent(s) | _____ |
| (a) Petitioner(s) | _____ |
| (b) Respondent(s) | _____ |
| (3) Authority passing the order in dispute | _____ |
| (4) Date of receipt of the order of which revision is sought | _____ |
| (5) Relief claimed in revision | _____ |
| (a) If turnover/aggregate of purchase price is disputed | _____ |
| (i) Disputed turnover/aggregate of purchase prices | _____ |
| (ii) Tax due on the disputed turnover/aggregate of purchase prices | _____ |
| (b) If the rate of tax is disputed | _____ |
| (i) Turnover/aggregate of purchase prices involved | _____ |
| (ii) Amount of tax disputed | _____ |
| (c) If the order of penalty/interest is disputed | _____ |
| (i) Section under which penalty imposed. | _____ |
| (ii) Amount of penalty in dispute | _____ |
| (iii) Amount of interest in dispute | _____ |
| (d) Any other relief claimed | _____ |
| (6) Grounds of Revisions— | _____ |

VERIFICATION

Petitioner(a) _____ named above does/do hereby declare—

- (1) that appeal does not lie to the Tribunal against the said order.
(2) that what is stated herein is true to the best of his/her/their knowledge and belief.

Verified to-day the day of 19.....

.....
(Signed)
(Authorised Representative, if any)

.....
(Signed)
(Petitioner)

Notes :—(1) The application must be in duplicate accompanied by two copies of the order of which revision is sought (at least one of these copies must be an original or a certified one) along with two copies of the relevant order of the assessing authority

(2) The No. and year of Revision will be filled in by the office of the Commissioner.

(3) If the space provided is found insufficient separate enclosures may be used for the purpose.

**THE RAJASTHAN AGRICULTURAL CREDIT OPERATIONS
(REMOVAL OF DIFFICULTIES) (AMENDMENT)
ORDINANCE, 1985,**

Published in the *Rajasthan Gazette (Ext.)*, Part IV, (Kha) dated May 8, 1985,

ORDINANCE NO. 2 OF 1985

An Ordinance to further amend the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act 1974.

Whereas the Rajasthan Legislative Assembly is not in session and the Governor of the State of Rajasthan is satisfied that circumstances exist which render it necessary for him to take immediate action in this behalf;

Now, therefore, in exercise of powers conferred on him by clause (1) of Article 213 of the Constitution of India, the Governor is hereby pleased to make and promulgate in the Thirty-sixth year of the Republic of India, the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Rajasthan Agricultural Credits Operations (Removal of Difficulties) (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Amendment of section 2, Rajasthan Act 22 of 1974.*—In section 2 of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 (Rajasthan Act 22 of 1974), hereinafter referred to as the principal Act, in clause (a), between the words "poultry farmers" and the words "and other categories", the expression "land less labourers, rural artisans" shall be inserted.

3. *Amendment of section 13, Rajasthan Act 22 of 1974.*—In sub-section (1) of section 13 of the principal Act,—

(i) between the expression "or his heir or legal representative" and the expression "directing the payment", the words "or his guarantor" shall be inserted;

(ii) after the expression "charged or mortgaged" wherever occurring the expression "or of any other property in his possession" shall be inserted; and

(iii) in the proviso to the said sub-section, between the words "the heir or legal representative" and the words "of the agriculturist", the words "or the guarantor" shall be inserted.

4. *Omission of section 16, Rajasthan Act 22 of 1974.*—Section 16 of the principal Act shall be deleted.

O. P. MEHRA
Governor of Rajasthan.

THE RAJASTHAN IMPOSITION OF CEILING ON AGRICULTURAL HOLDINGS (AMENDMENT) ORDINANCE, 1985.

Published in the *Rajasthan Gazette (Ext.)*, dated May 13, 1985

ORDINANCE NO. 3 of 1985

An Ordinance further to amend the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973.

Whereas, the Rajasthan Legislative Assembly is not in Session and the Governor of the State of Rajasthan is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred on him by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to make and promulgate in the Thirty-sixth Year of the Republic of India, the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment) Ordinance, 1985.**

(2) It shall come into force at once.

2. *Insertion of new Section 15-B in Rajasthan Act II of 1973*—After Section 15.A of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973, the following new section shall be inserted, namely :—

“15-B. *Validation of decisions by and proceedings before certain Additional Collectors.*—Notwithstanding anything contained in sub-section (1) or sub-section (2) of section 15 or in any decision of any Court,—

(a) such Additional Collectors, as had, before the commencement of the Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment) Ordinance, 1985, re-opened any matters referred to in sub-section (1) or sub-section (2) of section 15 and had decided them afresh or before whom such matters are pending for decision on the date of such commencement shall, with respect to such matters, be deemed and be always deemed to have been directed by the State Government under and in accordance with and for the purposes laid down in the said sub-section ;

(b) all things done, actions taken, decisions given, directions issued and orders passed by such Additional Collectors with respect to such matters before commencement shall be deemed to be and be always deemed to have been validly done, taken, given issued or, as the case may be, passed by them ; and

(c) the existence and validity of any such things done, actions taken, decision given, directions issued or, as the case may be, orders passed with respect to such matters shall not be called in question in any court or tribunal or before any authority on the ground that no direction under and in accordance with sub-section (1) or sub-section (2) of section 15 was issued or for any other defect or want of appointment, form, procedure, or jurisdiction.”.

O. P. MEHRA,
Governor of Rajasthan.

Published in the *Rajasthan Gazette (Ext.)*, Part IV (Ga), dated
February 27, 1985.

LABOUR DEPARTMENT

G. S. R. 171.—(*Jaipur, February 25, 1985*).—In exercise of powers

conferred by section 112 of the Factories Act, 1948 (Central Act 63 of 1948), the State Government hereby makes the following Rules further to amend the Rajasthan Factories Rules, 1951, the same having been previously published in Rajasthan Gazette, extraordinary Part 3 (kh) dated 11th July, 1984 as required by section 115 of the said Act namely :—

RULES

1. These rules may be called the **Rajasthan Factories (Amendment) Rules, 1985** and shall come into force from the 1st day of April 1985.

2. (i) In sub-rule (1) of rule 4 after the expression "grant of licence therefore" the following expression "for a period not exceeding three years", shall be added.

(ii) In sub-rule (1) of rule 4 before the existing proviso, the following new proviso shall be added, namely :—

"Provided that if the period for which the licence is applied for is one year or more but does not exceed three years, the fees payable therefor, per year shall be at the rate specified in Schedule A & B as prescribed under rule 4."

(iii) In the existing proviso of sub-rule (1) of rule 4 between the word "provided" and word "that" the word "further" shall be inserted.

(b) In sub-rule (2) of rule 4 the expression "or a cross cheque" and expression "or an invoice for book adjustment" shall be deleted.

(c) The Schedule "A" prescribed under rule 4 shall be substituted by the following schedule :—

SCHEDULE—"A"

"Scale of fees payable per year for original licence and for renewal of licences for the factories other than electricity generating, transforming or transmitting, factories,"

(omitted)

(d) In form No. 2 prescribed in rule 4 the following shall be inserted, namely :—

(i) In column 7 & 8 between the word "Full Name" and "residential" the word "with father's name" shall be added.

(ii) In form No. 2 in the end of the application below the "signature occupier" and "Signature of Manager" in the bracket the expression "(Full name of Occupier)" and "(Full name of the Manager)" shall be added.

3. (a) In sub-rule (1) of rule 5 between the expression "grant a licence" and "in form No. 4" the expression "for a period not exceeding three years at a time" shall be inserted.

(b) In sub-rule (2) of rule 5 for the word "December" the word "March" shall be substituted.

4. (i) in sub-rule (1) of rule 6 between the expression "under rule 5" and "may be amended" the expression "or renewed under rule 7" shall be inserted.

(ii) In sub-rule (4) of rule 6 for word "Five" the word "Ten" shall be substituted.

5. (1) (a) In sub-rule (1) of rule 7 after the expression "for the renewal of licence" the expression "for a period not exceeding three years" shall be inserted.

(b) In sub-rule (1) of rule 7 after the words "Chief Inspector" the words "/Dy. Chief Inspector" shall be inserted

(c) In sub-rule (1) of rule 7 the expression "or a crossed cheque" and expression "or an invoice for book adjustment" shall be deleted.

(d) In sub-rule (1) of rule 7 in the existing proviso for the word "November" the word "February" and for the word "January" the word "April" shall be substituted.

(e) In sub-rule (1) of rule 7 the following new proviso shall be inserted, namely "Provided further that, if the period for which the licence is applied for is one year or more but does not exceed three years, the fees payable therefore per year shall be at the rate specified in Schedule A & B prescribed under rule 4."

(2) (a) In sub-rule (2) of rule 7 after the word "Chief Inspector" the words "/Dy. Chief Inspector" shall be inserted.

(b) In sub-rule (2) of rule 7 between the expression "renew the same" and expression "or may" the expression "for a period not exceeding three years at a time" shall be inserted.

(c) In sub-rule (2) of rule 7 before the existing proviso the following new proviso shall be inserted, namely :—

"Provided that if the period for which the licence is applied for is one year or more but does not exceed three years, the fees payable therefore per year shall be at the rates specified in the schedule A & B prescribed under rule 4."

(d) In the existing proviso of sub-section (2) of rule 7 between the word "prescribed" and the word "that" the word "further" shall be inserted.

(e) After sub-rule (2) of rule 7 a new sub-rule (3) shall be inserted, namely :—

"Every licence renewed under this rule shall remain in force upto 31st March of the year for which the licence is renewed."

6. (1) In rule 7-A under explanation the expression "or a cross cheque" and the expression "or an invoice for book adjustment" shall be deleted.

(2) After rule 7 A a new rule 7B shall be inserted, namely :—

"7B. *Revocation of licence.*—The Chief Inspector at any time before the expiry of the period for which the licence has been granted or renewed may revoke the licence on any of the grounds specified in sub-rule (1) of rule 5."

7 In sub-rule (3) of rule 8 for the word "Five" the word "Ten" shall be substituted.

8. In rule 10 the word "Five" wherever occurs shall be substituted by the word "Ten."

9. In sub-rule (1) of rule 11 the expression "or by the crossed Cheque" shall be deleted.

10. In sub-rule (1) of rule 11-A for the word "October" the word "January" shall be substituted.

11. In sub-rule (5) of rule 57 A between the expression "over head travelling, and "Cranes, such that" expression "Floor operated cranes where rail height is more than 14 feet or all cabin operated travelling" shall be inserted.

12. In rule 64-B for sub-clauses (1) and (2) of the clause (c) of sub-rule (2) the following shall be substituted.

“(1) In sub-clauses (1) of clause (c) of sub-rule (2) of rule 64-B for existing figures Rs. 1150-50-1650 the figures Rs. 1500-50-1800-60-2100-75-2250 shall be substituted.

(2) In sub-clause (2) of clause (c) of sub-rule (2) of rule 64-B for existing figures Rs. 750-50-1250 the figures Rs. 1000-30-1300-40-1500-50-1800-60-1860 shall be substituted.”

13. In the rule 86, 87, 88, and 89 of the said rules the following shall be substituted, namely :—

“86. *Persons to hold position of Supervision or Management.*—The following persons shall be deemed to hold position of Supervision or management.

(a) All person specified in the Schedule annexed thereto.

(b) Any other person who in the opinion of the Chief Inspector holds a position of supervision or Management in a factory and is declared so in writing by him on application by the Manager of the Factory under such condition as may be imposed by the Chief Inspector :

Provided that the person so declared shall be drawing a salary of not less than Rs. 500/- per month inclusive of all allowances

SCHEDULE

List of persons to hold positions of supervision or management in Factories :—

I. All factories

1. Manager.
2. Assistant Manager.
3. Labour Officer.
4. Welfare Officer.
5. Departmental Heads and Assistants.
6. Engineers (including Assistant Engineers).
7. Head Store-Keepers.

Such boiler attendants who are in charge of battery of boilers and are only required to do the supervisory work.

8. Technical experts.
9. Head Electrician.

II. Engineering workshop

1. Foreman.
 2. Inspectors.
 3. Chageman
 4. Workshop overseers.
- (In addition to persons in the list “I. All factories” above)

III. Spinning and Weaving Mills, Engineering Department..

1. Foreman Mechanics.

Spinning Department

1. Jobbers of Muccadams.

(Note.—Spinning Department shall, for the purpose of this rule, be deemed to include also the blowing, carding, drawing and frame department).

Weaving Department

1. Jobbers, Overseers or Muccadams.

(Weaving Department shall, for the purpose of this rule be deemed to include preparatory department of winging, warping and sizing).

Dyeing, Bleaching, Folding, Calendering, Finishing and Cloth Printing Departments.

Jobbers overseers or Muccadams.

(In addition to person in the list "I. All Factories" above).

87. *Persons to hold confidential position.*—(1) Head time keeper employed in a factory shall be deemed to be employed in a Confidential position in the factory.

(2) Any other person who in the opinion of the Chief Inspector holds a confidential position in the Factory and is declared so in writing him, on application by the manager of the factory under such conditions as may be imposed by the Chief Inspector :

Provided that the persons so declared shall be drawing a salary of not less than Rs. 500/- per month inclusive of all allowances.

88. *List to be maintained of persons holding confidential position or supervision or management.*—A list showing the names, designation and nature of work of all such persons to whom the provisions of sub-section (1) of section 64 have been applied shall be maintained in every factory and a copy thereof shall be sent to the Inspector.

89. *Exemption of certain adult workers*—Adult workers engaged in factories specified in column 3 of schedule hereto annexed on the work specified in column 4 of the said schedule shall be exempted from the provisions of the sections specified in column 5 of the said schedule subject to the conditions, if any, specified in column 6 of the said schedule :

Provided that :—

(1) No female adult worker shall be required or allowed to work for more than nine hours on any day except in the case of urgent repairs covered by item (i) of the said schedule and no male adult worker shall be required to allowed to work for more than ten hours on any day.

(2) No male adult worker shall be required or allowed to work in any quarter for more than fifty hours over time on weekly limits.

(3) Period of work for each male adult worker shall be so arranged that inclusive of his interval rest they shall not spread over more than twelve hours in any day :

Provided further that the restrictions imposed by sub-clause (2) and (3) shall not apply in the case of a shift worker engaged in factories specified against serial Nos. 9, 11 to 21, 23 to 34(i), 35(i), 43, 45 and 57(i) of the schedule and allowed to work in the whole or part of the subsequent shift in place of a worker who has failed to report for duty.

SCHEDULE

(omitted)

FORM NO. 74

(omitted.)

THE RAJASTHAN APPROPRIATION (NO. 4) ACT, 1985

The following Act was published in the *Rajasthan Gazette Ext*, Part 4 (Ka), dated July 30, 1985

ACT NO. 5 OF 1985

An Act to authorise payment and appropriation of certain sums

from and out of the Consolidated Fund of the State for the Services of the financial year 1985-86.

Be it enacted by the Rajasthan State Legislature in the Thirty-Sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be cited as the Rajasthan Appropriation (No. 4) Act, 1985.

(Text omitted)

THE RAJASTHAN SALES TAX (AMENDMENT) ACT, 1985

The following Act of the Rajasthan State Legislature received the assent of the Governor on 31st day of July, 1985 and was published in the *Rajasthan Gazette, Ext.*, Part IV (Ka), dated July 31, 1985.

ACT NO. 7 OF 1985

An Act further to amend the Rajasthan Sales Tax Act, 1954

Be it enacted by the Rajasthan State Legislature in the Thirty-Sixth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Rajasthan Sales Tax (Amendment) Act, 1985.

(2) It shall come into force on the first day of August, 1985.

2. *Insertion of new section 5-H, Rajasthan Act 29 of 1954.*—After section 5-G of the Rajasthan Sales Tax Act, 1954 (Rajasthan Act 29 of 1954), the following new section 5-H shall be inserted, namely :—

“5-A. *Levy of surcharge.*—(1) Notwithstanding anything to the contrary contained in this Act, there shall be paid by a dealer, whose turnover in an assessment year exceeds the sum of Rs. 75,000/- a surcharge at the rate of ten percent on the amount of tax payable by him under this Act :

Provided that the surcharge shall not be payable on the tax payable under this Act in respect of the goods declared by section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) to be of special importance in inter-state trade or commerce.

(2) The provisions of this Act shall, so far as may be, apply in relation to the surcharge payable under sub-section (1), as they apply to the tax payable under this Act.”

THE RAJASTHAN LAND TAX ACT, 1985

The following Act of the Rajasthan Legislature received the assent of the Governor on the 13th day of July, 1985, and was published in the *Rajasthan Gazette, Ext.*, Part IV (Ka), dated August 1, 1985.

ACT NO. 6 OF 1985

An Act to provide for the imposition of tax on land in areas other than urban areas in the State of Rajasthan and the matters incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the Rajasthan Land Tax Act, 1985.

(2) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "annual value" means, in the case of land held or used in a year—

(i) for excavating, extracting, removing or utilising any ore or mineral, equal to the amount of the annual dead rent or half the amount of the royalty payable for the year with regard to such ore or mineral, whichever is higher ;

Explanation.—For the purpose of determining the Annual Value, total area held or used by a lessee under more than one lease shall be considered as one area of land.

(ii) for growing collecting or receiving a forest or horticultural produce, 50% of the sale price of such produce of the year where such produce is sold during the year or of the average market price of such produce where such produce is not sold during the year ;

(iii) for the industrial or commercial purpose, 2% of the prevailing market value of such land on the first day of April where the year begins on that day and on the first day of April immediately precedings the year where the year begins on a day other than the first day of April ;

(iv) for any other purpose, 1% of the prevailing market value of the land on the first day of April where the year begins on that day and on the first day of April immediately precedings the year where the year begins on a day other than the first day of April ;

(b) "Appellate authority" means the officer appointed as such by the State Government for any area by Notification in the Official Gazette ;

(c) "Assessing Authority" means the officer appointed as such by the State Government for any area by Notification in the official Gazette to make determination of annual value and assessment of tax under this Act ;

"dead rent" means the minimum guaranteed amount of royalty payable yearly by the lessee under the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957) and the rules made thereunder or under an agreement for a mining lease ;

(e) "Director" means the officer appointed by the State Government to be the Director of Land Tax ;

(f) "forest produce" includes small timber, firwood, char-coal, bambos, edible and non-edible oil seeds, barks, flowers, fruits, leaves, grass, gum, tanning material and other minor forest products ;

(g) "land" means land held or used for—

(i) excavating, extracting, removing or utilising any ore or mineral ;

(ii) growing, collecting or receiving any forest or horticultural produce ;

(iii) any industrial or commercial purpose ; or

(iv) any other purpose—

but shall not include a land held or used exclusively for agricultural or residential purpose or a land situate in an urban area or in a notified area declared as such under section 313 of the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959) or an abadi land as defined in clause (b) of section 103 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) ;

(h) "Land holder" means a person who holds or uses land as its owner, tenant, lessee, licensee grantee or under any rights or contract or in any other capacity ;

(i) "prescribed" means prescribed by the rules made under this Act ;

(j) "royalty" means the charge payable by the lessee to the State Government in respect of any ore or mineral excavated, extracted, removed or utilised from any land under the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957) and the rules made thereunder ;

(k) "tax" means the tax on land payable under this Act ;

(l) "urban area" means the urban area as defined in the Rajasthan Lands and Buildings Tax Act, 1964 (Rajasthan Act 18 of 1964) ; and

(m) "year" means the twelve months ending on the thirty first day of March, or, if the accounts of a land holder have been made upto a date within the said twelve months in respect of a year ending on any date other than the thirty first day of March, then, the year ending on the date upto which his accounts have so been made up.

3. *Incidence of tax.*—Every land holder shall be liable to pay tax under this Act on the annual value of the land for every year or, as the case may be, part thereof during which such land is held or used by him.

4. *Exemptions.*—(1) No tax shall be payable under this Act on the land—

(a) owned by—

(i) the Central Government; or

(ii) the State Government or a local authority except where such land or a right connected therewith is leased out or otherwise given for its use to any person on payment or without payment; or

(b) held or used—

(i) as a wakf property;

(ii) by the Devasthan department of the State Government;

(iii) for public worship or public purpose;

(iv) for purposes connected with the disposal of dead bodies;

(v) by an educational institution solely for purposes of education; or

(vi) for public parks, public libraries or public museums.

(2) The State Government may, on being satisfied that it is necessary or expedient so to do in public interest, exempt, by Notification in the Official Gazette, any land or land-holder or class of lands or land-holders from the tax on such conditions as may be specified.

5. *Rate of tax.*—The tax payable by a land-holder shall be assessed at such rate, not exceeding 50% of the annual value, as may be specified by the State Government from time to time by Notification in the Official Gazette and different rates may be specified for lands held or used for different purposes.

CHAPTER—II

Registration, Returns and Assessment

6. *Registration of land holders.*—(1) Every land holder becoming liable to pay tax on or after the commencement of this Act shall, within 90 days of such commencement or, as the case may be, of his so becoming liable, make an application in the prescribed form to the Assessing Authority having jurisdiction and shall also make payment of fifty rupees as registration fee to the State Government.

(2) The Assessing Authority shall, on being satisfied that the land-holder making application and payment of registration fee may be regis-

tered, issue a certificate of registration to such land-holder in the form prescribed.

(3) The Assessing Authority may, upon information received from any person or upon his own knowledge, issue notice to any person to show cause as to why he may not be required to make application for registration.

7. *Returns*.—(1) Every land-holder registered under section 6 shall file with the Assessing Authority having jurisdiction returns for the prescribed period in such form and manner and within such time as may be prescribed and shall also pay tax on that part of the annual value estimated and disclosed in the return which is proportionate to the period covered by such return;

Provided that the said time may, on an application being made by the land holder and for sufficient reasons, be extended by a period not exceeding thirty days by the Assessing Authority :

Provided further that the State Government may, by Notification in the Official Gazette, require any land-holder or class of land-holders to pay tax at intervals shorter than those prescribed under this sub-section and in such a case tax shall be deposited at such intervals.

(2) Every return shall be accompanied by a treasury receipt or receipt of any scheduled Bank authorised to receive money on behalf of the State Government showing the deposit of the amount of tax calculated by the land holder for the prescribed period.

(3) On the discovery of any error or omission, a revised return for a prescribed period may be filed by a land-holder before the expiry of the time prescribed for filing of the next return.

(4) The amount of tax paid by a land-holder under sub-section (1) shall be provisional and subject to adjustment at the time of assessment.

8. *Provisional Assessment*.—Where a land-holder—

(a) fails to file prescribed return; or

(b) fails to deposit the amount of tax for any period; or

(c) files incorrect return; or

(d) evades or avoids the payment of tax for any period,—

the Assessing Authority may, after such enquiry as he considers necessary, proceed to provisionally assess to the best of his judgement the amount of tax payable by such land-holder for such period.

9. *Assessment*.—(1) After all the returns relating to a year have become due, the Assessing Authority shall, with regard to every land holder liable to pay tax for such year or part thereof, proceed to determine the annual value and assess the amount of tax.

(2) Where the returns filed by a land-holder appear to disclose the annual value correctly, the Assessing Authority may determine the annual value and assess the tax accordingly.

(3) The Assessing Authority may, on being satisfied—

(a) that no returns have been filed; or

(b) that returns showing incorrect annual value or the amount of tax have been filed; or

(c) that there are reasons to make enquiry,—

fix a date and require the land-holder to appear before him on such date and produce books of accounts and other evidence for assessment of tax.

(4) The Assessing Authority may issue summons to any person requiring him to appear for being examined or to produce any document in his possession for assessment of tax with regard to any land-holder.

(5) After recording the oral evidence, if any, and examining the books of accounts and other documents produced before him and making such enquiry as he considers, necessary, the Assessing Authority may—

(a) determine the annual value as assess the tax as disclosed by the land-holder ; or

(b) refuse to accept the annual value and disclosed by the land-holder and make determination of annual value and assessment of tax to the best of his judgment.

10. *Payment and recovery of tax, penalty interest or fee.*—(1) The Assessing Authority shall, after assessing the amount of tax, whether under section 8 or section 9 or, as the case may be, section 12, cause a demand notice to be served on the land-holder. Such notice shall specify the amount of tax payable by the land-holder and shall contain such particulars as may be prescribed.

(2) The amount of tax as specified in the demand notice referred to in sub-section (1) shall be payable by the land-holder within the time specified by such Authority or, where no such time is specified, within 30 days of the receipt of such notice.

(3) In default of the payment of tax payable under sub-section (1), the amount of tax shall be recoverable as an arrear of land revenue.

(4) Notwithstanding anything contained in any other law for the time being in force, or any custom, usage or contract or any decree or order of a court or authority, the tax shall be a first charge upon the land.

(5) Where the land-holder is himself not the occupier of the land and makes a default in the payment of tax, such tax may be recovered from the occupier out of the rent or other sum which may fall due to the land-holder. The occupier shall be entitled to deduct the amount so paid from the amount of rent or other sum payable from time to time by him to the land-holder.

(6) Any penalty, interests or fees payable under this Act shall be deemed to be tax for the purpose of collection and recovery under this Act.

11. *Interest on failure to pay tax.*—(1) Where a land-holder liable to pay tax fails to make advance payment of the amount of tax at the time of filing prescribed returns or to make payment of the amount of tax assessed by the Assessing Authority, he shall be liable to pay interest on the amount of tax payable by him at the rate of 15 per cent per annum from the date on which payment of the amount of the tax became due upto the date of payment of such amount.

(2) Where the amount of tax payable by a land-holder is reduced in appeal by the Appellate Authority, the amount of interest shall be calculated on such reduced amount and the excess amount of interest, if any paid by the land-holder shall be refunded to him by the Assessing Authority.

12. *Assessment of tax on escaped annual value.*—(1) The Assessing Authority may, on having reason to believe or suspect that the whole or part of the annual value of a land has escaped assessment to tax, issue a notice to the land-holder directing him to appear and show cause as to why determination of the annual value and assessment of tax so escaped be not made:

Provided that no such notice shall be issued after the expiry of five years from the close of the year in regard to which the annual value is believed or suspected to have escaped:

Provided further that the period during which the proceedings were stayed by the orders of a competent Court shall be excluded from the said period of five years.

(2) After affording reasonable opportunity of being heard to the land-holder and making such enquiry as may be considered necessary, the Assessing Authority may either vacate the notice issued under sub-section (1) or proceed to assess or re-assess the tax.

Explanation.—Nothing in this section shall be deemed to prevent the Assessing Authority from making an assessment to the best of his judgment.

13. *Transfer of land.*—(1) Whenever the title or rights in land of any person liable to pay tax are transferred, such person shall, within ninety days from the date of transfer, give notice of such transfer to the Assessing Authority in such form and manner as may be prescribed.

(2) In the event of death of the person liable to pay tax, the legal representatives of the deceased shall, within ninety days of such death, give notice of such death to the Assessing Authority in such form and manner as may be prescribed.

(3) A person making a transfer, as mentioned in sub-section (1) without giving notice to the Assessing Authority, shall continue to be liable to pay tax until he gives such notice or until the transfer is recorded by the Assessing Authority in his records. Nothing, however, shall affect the liability of the transferee with regard to the payment of tax.

CHAPTER III

Appeals, Revision, Review and Refund

14. *Appeals*—(1) A land-holder aggrieved by an assessment of tax made by the Assessing Authority may, within sixty days of the receipt of notice of demand relating to the amount of tax, present an appeal before the Appellate Authority:

Provided that no appeal shall be entertained under this sub-section unless it is accompanied by a satisfactory proof of the payment of tax or other amounts admitted by the Appellant to be due from him:

Provided further that the Appellate Authority may admit an appeal after the said period of sixty days if it is satisfied that the appellant has sufficient cause for not presenting the appeal within the said period.

(2) The Appellate Authority may, after giving reasonable opportunity of being heard to the land-holder presenting appeal and to the Assessing Authority, confirm, vary amend or set aside the order of assessment and may maintain, reduce or enhance the amount of tax, interest or penalty.

(3) The Assessing Authority may be directed by the Appellate Authority to make further enquiry and send report with regard to the assessment of the amount of tax under appeal.

(4) The Appellate Authority may remand a case for a fresh assessment to the Assessing authority with such direction as it may consider necessary and the Assessing Authority shall make afresh assessment in accordance with such directions.

(5) The amount of tax as assessed by the Assessing Authority shall subject to the provision contained in section 25, be paid by the land-holder in accordance with the order against which the appeal has been presented and the payment of such amount shall not be stayed by the Appellate Authority.

15. *Revision*—The Board of Revenue may, on an application being filed before it within 30 days of the date of order made by the Appellate Authority or of its own motion, call for the records of any proceedings under this Act and revise any order of the appellate Authority or make such order as it may think fit.

16. *Review*—An order made under this Act may, for rectifying an error or mistake apparent on the face of the record or for other sufficient reasons, be reviewed by the Authority which made such order :

Provided that no order shall be reviewed which has the effect of increasing the tax without giving a reasonable opportunity of being heard to the land-holder.

17. *Refund*.—The amount of tax, interest or penalty paid in excess by a land holder shall be refunded to him or adjusted towards any other demand existing against him under this Act.

CHAPTER IV

Accounts, Penalty, Entry and Seizure

18. *Maintenance of accounts*.—(1) Every land-holder liable to pay tax shall maintain books of account and keep proper account in regard to his business or land on the basis of which annual value is to be determined and tax is to be assessed under this Act.

(2) The books of account maintained by a land-holder shall, on being so directed by the Assessing Authority, Appellate Authority or the revising Authority, be produced by the land-holder or the person having the custody of such accounts for being examined by such Authority.

19. *Offences and penalties*.—Where a land-holder—

(a) fails to obtain registration within the time prescribed under section 6 ;

(b) omits or fails to file prescribed returns within the time prescribed under section 7 ;

(c) furnishes deliberately incorrect returns or conceals material particulars therein ; or

(d) acts in contravention of any provision of this Act or the rules made thereunder,—

he shall be, after being afforded by the Assessing Authority a reasonable opportunity of being heard, liable to pay, in addition to tax, such penalty as may be imposed by such Authority :

Provided that the amount of penalty shall, in the cases falling under clause (a) or (b) or (d), not exceed one thousand rupees and in the cases

falling under clause (c) shall not exceed double the amount of tax which would have been avoided if the return filed by the land holder had been accepted as correct.

20 *Production of documents and power of entry and seizure.*—(1) The Assessing Authority may direct a land-holder or any other person having the custody of books of accounts, registers or other documents relating to a land or its annual value to produce such books, registers or documents before it.

(2) The Assessing Authority or any other officer specially authorised by the State Government in this behalf may enter into or upon any land or building for its inspection or inquiry into the annual value of the land and may, for reasons to be recorded in writing, also seize any books of accounts, registers and documents kept or maintained thereby a land-holder liable to pay tax.

CHAPTER V

Miscellaneous

21. *Survey of lands.*—(1) An officer specially authorised in this behalf by the State Government shall carry out survey of all lands in the area specified in the order so authorising him and, if such lands have already been surveyed, carry out re-survey of such lands for the purposes of this Act.

(2) The survey or re-survey shall be carried out in accordance with the rules made by the State Government in this behalf.

22. *Indemnity.*—No suit, prosecution or other legal proceeding shall lie against any Authority or Officer acting under the provisions of this Act or the rules made thereunder for anything done in good faith.

23 *Bar to certain proceedings*—Save as otherwise provided in this Act, no orders made, actions taken and proceedings initiated under this Act shall be called into question in any civil court or any other court or tribunal or before any Authority.

24. *Powers of the State Government*—(1) For carrying out the purposes of this Act, the State Government may appoint such number of officers with appropriate designations as it may consider necessary.

(2) The State Government may, by Notification in the Official Gazette empower any officer of the State Government (including any officer of any local authority) to exercise such powers, discharge such duties and perform such functions under this Act in respect of such class of persons or class of lands or such areas as may be specified.

25. *Power of stay by Director*—Where an appeal has been presented by a land holder under section 14, the Director may, on an application in writing from the land-holder, stay the recovery of the disputed amount of tax, penalty or interest or any part thereof during the pendency of appeal if the land-holder furnishes sufficient security to the satisfaction of the Assessing Authority in such form and in such manner as may be prescribed :

Provided that where the recovery of an amount of tax, penalty or interest or a part thereof is stayed, such amount shall be recoverable with interest calculated at the rate prescribed in section 11 on the amount ultimately found due from the date on which such amount first became due.

26. *Power to make rules* —(1) The State Government may, from time to time, make rules for the purposes of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) compelling the submission of returns and the production of documents and enforcing the attendance of persons and examining them on oath or affirmation;

(c) prescribing fees for the purposes of filing appeals and revisions;

(d) the value of court fee stamps required for applications and other proceedings under this Act;

(e) the appointment, duties and powers of officer appointed for the purposes of enforcing the provisions of this Act;

(f) generally regulating the procedure to be followed and the forms to be adopted in the proceedings under this Act; and

(g) the recovery of tax, penalty, interest or fee payable under this Act.

(3) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature while it is in session for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect.

THE RAJASTHAN EXCISE (AMENDMENT) ACT, 1985

The following Act of the Rajasthan State Legislature received the assent of the Governor on 6th day of August, 1985 and was published in the *Rajasthan Gazette*, (Extra.), Part 4 (Ka) dated August 6, 1985

ACT NO. 8 OF 1985

An Act further to amend the Rajasthan Excise Act, 1950.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title and commencement* —(1) This Act may be called the **Rajasthan Excise (Amendment) Act, 1985.**

(2) Section 3 of this Act shall come into force at once and the remaining sections shall be deemed to have come into force on the 4th day of May, 1985.

2. *Insertion of new clause (17-A) in section 3, Rajasthan Act 2 of 1950.*—After clause (17) of section 3 of the Rajasthan Excise Act 1950 (Rajasthan Act 2 of 1950), hereinafter referred to as the principal Act, the following new clause, (17-A) shall be inserted, namely :—

“(17-A) “Molasses” means the mother liquor produced in the final stage of the manufacture of sugar or Khandasari sugar by the vacuum pan process or open pan process from sugar cane or gur”.

3. *Substitution of section 30-A, Rajasthan Act 2 of 1950* —For the existing section 30-A of the principal Act, the following shall be substituted

ted, namely :—

“30-A *Interest payable on failure to pay excise revenue.*—If the amount of any duty, fee or other demand due against any person under this Act or the rules made thereunder is not paid till the due date as prescribed, he shall be liable to pay on the amount due simple interest at the rate of one per cent per month where the default continues for not more than three months and at the rate of one and-a-half per cent per month where the default continues for more than three months from the day next following the day on which the payment of such duty, fee or demand became due :

Provided that where as a result of any order of the competent authority, the amount on which the interest was payable under this section has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.”

4. *Amendment of section 41, Rajasthan Act 2 of 1950.*—In clause (d) of sub-section (2) of section 41 of the principal Act, after the expression “excisable article”, the expression “or molasses” shall be added

5. *Repeal and savings.*—(1) The Rajasthan Excise (Amendment) Ordinance, 1985 (Ordinance No. 1 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, all things done, actions taken or orders made under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or made under the principal Act as amended by this Act.

THE RAJASTHAN AGRICULTURAL CREDIT OPERATIONS (REMOVAL OF DIFFICULTIES) (AMENDMENT) ACT 1985

The following Act of the Rajasthan State Legislature received the assent of the Governor on 7th August, 1985 and was published in the *Rajasthan Govt. Gazette, (Extra)* Part 4(Ka) dated 8th August, 1985.

ACT NO. 9 OF 1985

An Act further to amend the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Amendment Act, 1985.

(2) It shall be deemed to have come into force on the 8th day of May 1985.

2. *Amendment of section 2, Rajasthan Act 22 of 1974.*—In section 2 of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act 1974 (Rajasthan Act 22 of 1974), hereinafter referred to as the principal Act, in clause (a), between the words “poultry farmers” and the words “and other categories”, the expression “landless labourers, rural artisan” shall be inserted.

3. *Amendment of section 13, Rajasthan Act 22 of 1974.*—In sub-section (1) of section 13 of the principal Act,—

(i) between the expression “or his heir or legal representative” and the expression “or his heir or legal representative” and the expression

"directing the payment", the words "or his guarantor" shall be inserted ;

(ii) after the expression "charged or mortgaged", wherever occurring, the expression "or of any other property in his possession" shall be inserted; and

(iii) in the proviso to the said sub-section, between the words "the heir or legal representative" and the words "of the agriculturist", the words "or the guarantor" shall be inserted.

4. *Omission of section 16, Rajasthan Act 22 of 1974.*—Section 16 of the principal Act shall be deleted,

5. *Repeal and Savings*—(1) The Rajasthan Agricultural Credit Operations (Removal of Difficulties) (Amendment) Ordinance, 1985 (Ordinance No 2 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, all things done, actions taken or orders made under the principal Act; as amended by the said Ordinance, shall be deemed to have been done, taken or made under the principal Act as amended by this Act.

THE RAJASTHAN IMPOSITION OF CEILING ON AGRICULTURE HOLDINGS (AMENDMENT) ACT, 1985

The following Act of the Rajasthan State Legislature received the assent of the Governor on 7th August, 1985 and was published in the *Rajasthan Govt. Gazette, (Ext.)*, Part 4(Ka), dated 8th August, 1985.

ACT NO. 10 OF 1985

An Act further to amend the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973.

Be it enacted by the Rajasthan State Legislature in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment) Act, 1985,

(2) It shall be deemed to have come into force on the 13th day of May, 1985.

2. *Insertion of new section 15-B in Rajasthan Act 11 of 1973.*—After section 15-A of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973, the following new section shall be inserted, namely :—

"15-B. *Validation of decisions by and proceedings before certain Additional Collectors.*—Notwithstanding anything contained in sub-section (1) or sub-section (2) of section 15 or in any decision of any court,—

(a) such Additional Collectors, as had, before the commencement of the Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment) Act, 1985, re-opened any matters referred to in sub-section (1) or sub-section (2) of section 15 and had decided them afresh or before whom such matters are pending for decision on the date of such commencement, shall, with respect to such matters, be deemed and be always deemed to have been directed by the State Government under and in accordance with and for the purposes laid down in the said sub-sections ;

(b) all things done, actions taken, decisions given, directions issued, and orders passed by such Additional Collectors with respect to such commencement shall be deemed to be and be always deemed to have

been validly done, taken, given, issued or as the case may be, passed by them ; and

(c) the existence, and validity of any such things done, actions taken, decisions given, directions issued or, as the case may be, orders passed with respect to such matters shall not be called in question in any court or tribunal or before any authority on the ground that no direction under and in accordance with sub-section (1) of sub-section (2) of section 15 was issued or for any other defect or want of appointment, form, procedure or jurisdiction."

3, *Repeal and Savings*—(1) The Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment) Ordinance, 1985 (Ordinance No. 3 of 1985) is hereby repealed.

2. Notwithstanding such repeal, all things done, actions taken or orders made under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or made under the principal Act as amended by this Act

THE RAJASTHAN NURSES, MIDWIVES, HEALTH VISITORS AND AUXILIARY NURSE-MIDWIVES REGISTRATION (AMENDMENT) ORDINANCE, 1985.

The following Ordinance made and promulgated by the Governor on the 2nd day of September, 1985 was Published in the *Rajasthan Gazette*, Extra. Part 4 (Kha), dated September 3, 1985

ORDINANCE NO. 6 OF 1985

An Ordinance further to amend the Rajasthan Nurses, Midwives, Health Visitors and Auxiliary Nurse-Midwives Registration Act, 1964

Whereas the Rajasthan Legislative Assembly is not in session and the Governor is satisfied that the circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the power conferred by clause (1) of Article 213 of the Constitution of India, the Governor is hereby pleased to promulgate in the Thirty-sixth Year of the Republic of India, the following Ordinance, namely :—

1. *Short title and commencement*.—(1) This Ordinance may be called the *Rajasthan Nurses, Midwives, Health Visitors and Auxiliary Nurse-Midwives Registration (Amendment) Ordinance, 1985*.

(2) It shall come into force at once.

2. *Amendment of section 4, Rajasthan Act 9 of 1964*.—In the Rajasthan Nurses, Midwives, Health Visitors and Auxiliary Nurse-Midwives Registration Act, 1964 (Rajasthan Act 9 of 1964), in sub-section (1) of section 4,—

(a) in clause (a),—

(i) for the existing sub-clause (ii), the following shall be substituted, namely :—

“(ii) the Additional Director of Medical and Health Services, Rajasthan, Jaipur ;” and

(ii) for the existing sub-clause (iv), the following shall be substituted, namely :—

“(iv) the State Family Welfare Officer, Rajasthan, Jaipur”, ; and

(b) in clause (b), for the existing sub-clause (v), the following shall

be substituted, namely :—

“(y) the Nursing Superintendent of Santokba, Durlabhji Memorial Hospital, Jaipur ; and”.

O. P. MEHRA,
Governor of Rajasthan

Published in *the Rajasthan Gazette, Extraordinary* Part IV (Ga), dated August 1, 1985.

FINANCE (GR IV DEPARTMENT)

G.S.R. 46 —(*Jaipur, August 1, 1985*).—In exercise of the powers conferred by section 26 and all other enabling provisions of the Rajasthan Land Tax Act, 1985 (Rajasthan Act 6 of 1985), the State Government hereby makes the following rules, namely :—

THE RAJASTHAN LAND TAX RULES, 1985.

CHAPTER I

1. *Short title, extent and commencement.*—(1) These rules may be called the **Rajasthan Land Tax Rules, 1985**.

(2) They shall extend to the whole of the State of Rajasthan.

(3) They shall come into force on the date their publication in the Official Gazette.

2. *Definition.*—(1) In these rules, unless the context otherwise requires,—

(a) “Act” means the Rajasthan Land Tax Act, 1985 ;

(b) “Agent” means a person authorised in writing by the land holder to appear on his behalf before any authority under the Act ;

(c) “form” means a form appended to these rules ;

(d) “Government” means the Government of Rajasthan ;

(e) “section” means a section of the Act ;

(f) “treasury” means a Government Treasury in the State of Rajasthan and includes a sub-treasury.

(2) Words and expressions defined in the Act but not defined in these rules have the meanings respectively assigned to them in the Act.

CHAPTER II

Registration of Land Holders

3. *Application for Registration* —(1) An application for registration, as required to be made by a land holder under sub-section (1) of section 6, shall be made separately in respect of each land and for each type of such purpose as are referred to in clause (g) of section 2, except that in respect of all lands held or used for the purpose mentioned in sub-clause (i) of clause (a) of section 2 only one application shall be required for registration.

(2) Where a land holder has more than one land for the purpose mentioned in sub-clause (i) of clause (a) of section 2, he shall show in the application for registration any one land with the details of its location as principal land and any one office (with full address), where he shall keep his books of accounts, as principal office ; and both of such lands and office shall be so shown by him as to fall under the territorial jurisdiction of the same assessing authority.

4. *Form of application for registration* —Every application for registration shall be made in Form L. T. I., and shall be accompanied by a receipt

showing payment of the registration fee.

5. *Form of Registration Certificate and its issue.*—The certificate of registration to be issued under sub-section (2) of section 6 shall be in Form L T. 2, and it shall be issued within a period of 60 days from the date of application.

6. *Cancellation of registration certificate.*—The assessing authority concerned may cancel a registration certificate, if, after giving the holder of the certificate a reasonable opportunity of being heard, he is satisfied that such holder has obtained it by fraud or that he is no more liable to pay tax under this Act.

7. *Duplicate on loss of registration certificate.*—If a registration certificate is lost or misplaced or accidentally destroyed, a duplicate may be issued by the assessing authority concerned, on a application accompanied by a receipt for the payment of a fee of rupees ten in this behalf.

8. *Registration certificate is not transferable.*—A registration certificate shall not be transferable and when the holder of a certificate is succeeded by another person for any reason, a new registration certificate shall be applied for by such successor within ninety days of succession.

9. *Land covered by registration certificate.*—(1) Subject to the provisions of sub-rule (2), a registration certificate shall cover only one land mentioned therein.

(2) Where a land holder has more than one land for the purpose of sub-clause (1) of clause (a) of section 2, the registration certificate shall be issued for the principal land as shown by the land holder, and for each such other land a certified copy of the registration certificate shall be obtained by the land holder on payment of a fee of rupees ten for each copy of Registration. The assessing authority shall while issuing certified copy mention therein the full identity and address of such other land as also in the original certificate, and in case such other land is outside his jurisdiction, shall intimate within 15 days of the issue of such certified copy, full particulars thereof to the assessing authority having jurisdiction. Such certified copy shall be valid as a registration certificate in respect of the land mentioned therein so long as the original certificate is valid.

10. *Registration certificate to be kept open for inspection.*—The holder of a registration certificate shall keep it open for inspection in his office where his accounts are maintained for the purpose of section 18 and 20.

CHAPTER III

Exemptions

11. *Separate accounts of Exempted Lands.*—Wherever any land is exempted from tax under section 4, the land holder shall maintain separate necessary accounts in respect of such land for the purpose of the Act, if he has any other land not so exempted.

CHAPTER IV

Appointment of officers and their jurisdictions etc.

12. *Assignment of functions to officers.*—Subject to the provisions of the Act and these Rules, the Director may, for the purpose of enforcing the provisions of the Act and these Rules and subject to any orders or directions etc issued by the Government in this behalf from time to time under section 24 or other provisions of the Act, by order distribute or assign any functions of the assessing authority or appellate authority under the

Act, in respect of such class of persons or class of lands or such areas as may be specified, to any officers working under the Government

13. *Decision of question about jurisdiction*—If any question or doubt arises in respect of the area or jurisdiction, territorial or otherwise, of any authority or officer functioning under the Act or these Rules, it may be decided by an order by the Director, whose decision shall be final, and meanwhile no proceedings under the Act shall be stayed on such account, except by an order by the Government or the Director.

CHAPTER V

Returns, Statements and other Informations

14. *Form and Period etc. of returns*—The returns referred to in sub-section (1) of section 7 shall be filed in Form L. T.3-A, 3-B, 3-C or 3-D, as the case may, as to the land or lands held or used for the purposes of sub-clauses (i), (ii), (iii) and (iv) of clause (a) of section 2 respectively. Such returns shall be signed by the land holder himself or his agent and shall be verified in the manner indicated therein, and may be presented personally or sent by registered post.

(2) The returns shall be filed for each of the quarters ending with the last day of the months of June, September, December and March of every year if the year of the land holder ends on the 31st day of March, and in other cases, for each of the quarters by the year of his accounts, and shall be filed within 30 days after the end of the quarter to which it relates :

Provided that where a land held or used for any of the purposes of the Act, is transferred or ceases to be so held or used, the land holder shall, within a period of thirty days of such transfer or cessation, furnish a return for the period related to the quarter concerned

15. *Cognizance of return without receipt*.—If a return is not accompanied by a receipt for the payment of tax paid as required under sub-section (2) of section 7, the assessing authority shall not be bound to take cognizance of such return for the purpose of the land holder's obligation to furnish the return under the said section.

16. *Other information required by assessing authority*.—The assessing authority may for purposes of the Act, including sections 8, 9 and 18, call for any factual statement or information regarding any land or annual value, etc. from the land holder, who shall comply with the same in the manner as laid down and within the time allowed by the assessing authority.

CHAPTER VI

Notice of Demand

17. *Notice of Demand on assessment of Tax*.—As soon as an assessment of tax has been completed under section 8, 9 or 12, the assessing authority shall serve a notice of demand for payment in Form L.T.4 on the land holder, along with a certified copy of the assessment order, requiring him to pay the tax so assessed, within the prescribed time for the Act.

18. *Notice of Demand for dues other than tax*.—A notice of demand for payment in respect of fees, penalty, interest or other dues issued by the concerned authority may be in Form L.T.4 with such variations as may be required in the circumstances of each case.

CHAPTER VII

Appeal and Revision and their effects

19. *Memorandum of appeal.*—The memorandum of appeal under section 14 shall be in Form L.T. 5 and shall be substituted in duplicate.

20. *Contents of memorandum of appeal.*—The memorandum of appeal shall specify all the particulars given in the prescribed form and shall be signed and verified by the appellant or by his agent and shall be accompanied by a certified copy of the order sought to be challenged.

21. *Presentation of appeal.*—The memorandum of appeal shall be presented by the appellant or his pleader or his agent to the appellate authority or such member of his staff as such authority may appoint in that behalf, or may be sent by registered post addressed to such authority.

22. *Calling for records and comments.*—The appellate authority shall send a copy of the memorandum of appeal to the assessing authority concerned asking him to send the record of the order appealed against together with his comments, if any.

23. *Notice of hearing.*—The appellate authority shall give notice of the date fixed for hearing to the appellant and to the assessing authority concerned. Such notice may be delivered personally or by registered post.

24. *Dismissal for default.*—(1) Where the appellant does not appear on the date fixed for hearing, the appellate authority may dismiss the appeal in default.

(2) An appeal dismissed under the above sub-rule shall be restored if the appellant makes an application for that purpose within 30 days of the date of dismissal and satisfies such authority that the appellant was prevented by sufficient cause from appearing on the date fixed for hearing; and such restoration may be unconditional or on such conditions as such authority may deem reasonable in the circumstances of each case, including conditions as to the payment of costs to the state.

25. *Communication of appellate order.*—A copy of every order of the appellate authority disposing of an appeal shall be sent to the appellant and to the assessing authority concerned, either by personal delivery or by registered post.

26. *Application for revision.*—An application for revision under section 15 shall be in Form L. T. 6 and shall be verified.

27. *Other provisions regarding revision.*—The provisions of rules 20 to 25 shall apply in respect of application for revision, procedure for revision and other matters connected therewith in the same manner as they apply to appeals with such modifications as may be necessary.

28. *Effect of appellate or revision orders and refunds.*—(1) If an order passed in appeal or revision has the effect of varying any order of the assessing authority, the assessing authority shall take action to implement the order, and in particular, shall under section 17 refund the excess, or realise the deficit, as the case may be. Such excess shall be refunded forthwith in the manner laid down in sub-rule (2).

(2) If the assessing authority is satisfied that the payment made by a land holder is in excess of the tax due, he shall pass an order for refund of the excess amount and shall issue a refund order in Form L. T. 7 together with an advice to the Treasury Officer or Sub-Treasury Officer or

Manager of the Bank, as the case may be, in Form L. T. 7-A.

(3) If any amount is recoverable from a land holder then instead of the refund order for the amount refundable under sub-rule (2) the assessing authority shall issue refund adjustment order in Form L. T. 8 for necessary amount.

CHAPTER VIII

Accounts by Land Holders.

29. *Preservation of accounts.*—All accounts kept under the Act by a land holder shall be preserved with reasonable care for a period of at least 6 years after the close of the year of such accounts. Accounts pertaining to any litigation shall be preserved till that becomes final.

CHAPTER IX

Mode of payment, recovery of tax etc. and accounts in Government Department and their verification.

30. *Mode of payment of tax, etc.*—All payment of tax, interest, penalty or fees, unless expressly provided otherwise in the Act or these rules, shall be made into the concerned treasury by means of a challan in Form L. T. 9 or through a demand draft or crossed cheque in favour of the assessing authority concerned drawn on State Bank of India or any of its subsidiary banks.

31. *Issue of receipts.*—The officer-in-charge of the treasury in which any amount is paid by means of a challan under rule 30 shall issue a receipt in duplicate to the person paying the amount and forward to the authority concerned the part of the challan in Form L. T. 9 marked "original" within 7 days of the payment. The person making the payment, receiving the receipt in duplicate as aforesaid, may retain one copy of the receipt with himself and shall use its other copy (the portion marked for that purpose) for attaching to the return or other document to be submitted to the authority concerned, as the case may be.

32. *Verification of accounts.*—(1) In the first week of each month, the tax authority concerned shall prepare a statement in Form L. T. 10 and shall forward it to the Treasury Officer for verification.

(2) If any discrepancy is discovered by the Treasury Officer at the time of verification, he shall inform the tax authority concerned, who shall send the necessary records to the Treasury Officer for reconciliation of accounts.

33. *Furnishing of security for stay under section 25.*—In accordance with section 25, every land holder who is required to furnish security shall furnish a bond executed by himself in Form L. T. 11 with two sureties acceptable to the assessing authority for the amount the recovery of which has been stayed by the Director, and each of the sureties shall execute a bond in said Form. In the alternative the land holder may deposit Savings Certificates issued by the Government of India of face value not less than the amount as aforesaid, duly endorsed in favour of the assessing authority, or a bank guarantee for the said amount.

CHAPTER X

Notice etc. and their Service.

34. *Form of Notice, mode of service etc.*—The notice required to be given to the assessing authority under sub-section (1) of the section 13

of the Act shall be in Form L. T. 13 and that under sub-section (2) of the Act shall be in Form L. T. 14.

(2) The notice under sub-section (1) of the section 13 of the Act shall be signed by the land holder himself or his agent, and that under sub-section (2) of the section 13 of the Act shall be signed by the legal representatives of the deceased, and such notices may be presented personally or sent by registered post.

(3) Every summon, notice or direction issued under the Act or these rules for the production of any document, appearance of any person or showing cause shall be in Form L. T. 12.

(4) The service of any notice, summons, or order under the Act or these rules may be effected in any of the following ways, namely :—

(a) by giving or tendering the copy thereof to the person addressed or his manager or agent; or

(b) if such person or his manager or agent cannot easily be found, by leaving a copy thereof at his last known place of office or residence, or by giving or tendering it to some adult male member of his family; or

(c) if the address of such person is known to the tax authority concerned, by sending a copy thereof to him by registered post; or

(d) if none of the modes aforesaid is practicable, by affixation of a copy thereof in some conspicuous place at his last known place of office or residence.

CHAPTER XI

Miscellaneous

35. *Who can represent.*—No person shall appear before any tax authority in any proceeding under the Act as an agent of any other person, unless he is,—

(a) an advocate duly registered under the Advocates Act; or

(b) a friend or relative of the land holder, making such appearance without charging any remuneration therefor; or

(c) a person holding a general or special power of attorney executed by the land holder; or

(d) an officer duly authorised by the Director by a general or special order in this behalf

36. *Court fees.*—Court fee stamps of the value indicated below shall be affixed on all documents in respect of appeals, revisions and other proceedings under the Act or these rules:—

Sl. No.	Nature of Document	Value of Court fee stamps
1	2	3
1.	Memo of appeal under section 14	Rs. Twenty five
2.	Application for revision under section 15	Rs. Twenty five.
3.	Vakalatnama by an Advocate, or authority by a friend or relative of the land holder, When filed before—	

1	2	3
	(a) an appellate authority or an assessing authority.	Rupee One
	(b) the Board of Revenue	Rupees Two
4.	Application for adjournment of any proceedings	Rupee One
5.	Application for obtaining copies	Rupee One
6.	Copy of any order or document	For every page Rupee One.
7.	Copying fees for urgent copies	Double the fee payable at S. No. 6 above.
8.	Application for inspection of files	Rupee One for every one hour or less of inspection.
9.	Urgent application for inspection	Double of the fee payable at Serial No. 8 above.
10.	Any other document not covered by 1 to 8 above	Rupee One.

Explanation.—No fee shall be chargeable when a document is filed by or on behalf of any assessing authority.

37. *Survey or re-survey of lands.*—(1) The survey or re-survey of the lands to be carried out under section 21 shall be conducted, as far as may be, at least once in each financial year.

(2) Such survey shall be conducted under the directions and guidelines issued in this behalf from time to time by the Director, who shall recommend to the state government the officer or officers, and the area or areas, for special authorisation for survey of lands under the said section.

38. *Power to take evidence on oath, etc.*—The assessing authority, the Appellate authority, and the Board of Revenue shall, for the purposes of the Act and these Rules, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit, in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him on oath or affirmation ;

(b) compelling the production of documents ;

(c) issuing commission for examination of witnesses ;

and any proceeding before the Board of Revenue, the appellate authority and the assessing authority shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (XLV of 1860).

39. *Power to break open door, etc.*—Any officer specially authorised under section 20 (2) and the assessing authority shall, for the purposes of section 20, have power to break open any box or receptacle in which any books of accounts or records of a land holder liable to pay tax under the Act may be contained or to break open the door of any premises where any such books of accounts or records may be kept or to place marks of identification on his books of accounts or records or to make or cause to be made extracts or copies thereof :

Provided that the power to break open the door shall be exercised only after owner or any other person in occupation of the premises, if he is present therein fails or refuses to open the door on being called upon to do so.

40. *Role of Police*—The authorities empowered by or under section 20 may, if necessary for the purposes of the said section, request in writing for the help of the local police and the police authorities shall render such assistance as may be necessary to enable the said authorities to exercise the powers conferred on them under the Act or these Rules.

FORM L. T. 1 to FORM L. T. 14.

(omitted)

Published in the *Rajasthan Gazette, (Ext.)*, Part 4(Kha),
dated 23rd September, 1985.

THE RAJASTHAN DACOITY AFFECTED AREAS ORDINANCE, 1985.

RAJASTHAN ORDINANCE NO. 7 OF 1985

An Ordinance to make provisions for specifying certain offences in the dacoity affected areas of Rajasthan in order to curb effectively the commission of scheduled offences and to make provisions for speedy trial and punishment thereof and for the attachment of properties acquired through the commission of such offences and for matters connected therewith or incidental thereto.

Whereas for curbing effectively the menace of organised and un-organised gangs of dacoits, it is essential to break the chain of vested interests assisting, or associated with, such gangs and to control them effectively ;

And whereas it is essential to provide for more stringent punishments for certain scheduled offences in the areas affected by frequent dacoities ;

And whereas huge properties are being held through the commission of scheduled offences in the names of relatives, associates and confidants of the dacoits and it is necessary to provide for attachment and confiscation of such properties ;

And whereas the Rajasthan Legislative Assembly is not in session and the Governor is satisfied that the circumstances exist which render it necessary for him to take immediate action ;

And whereas the previous instructions of the President have been obtained for the provisions requiring it ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is hereby pleased to promulgate in the Thirty-sixth Year of the Republic of India, the following Ordinance, namely :—

CHAPTER I

Preliminary

1. *Short title and commencement*.—(1) This Ordinance may be called the **Rajasthan Dacoity Affected Areas Ordinance, 1985**.

(2) It shall come into force at once.

2. *Definitions*.—(1) In this Ordinance, unless the context otherwise requires,—

(a) "Code" means the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) ;

(b) "dacoity affected area" means an area declared by the State Government as a dacoity affected area under section 3 ;

(c) "scheduled offence" in relation to a dacoity affected area, means an offence specified in the schedule appended to this Ordinance, including an offence forming part of, arising out of, or connected with the commission of, dacoity ;

(d) "scheduled offender", in relation to a dacoity-affected area, means a person who commits or has committed or is a person accused of the commission of any scheduled offence ;

(e) "Special Court" means a Special Court constituted under section 6 ; and

(f) "Special Judge" means a Judge appointed under sub-section (2) of section 6 to preside over a Special Court.

(2) Words and expressions used but not defined in this Ordinance and defined in the Code shall have the meaning respectively assigned to them in the Code or, as the case may be, in the Indian Penal Code, 1860 (Central Act XLV of 1860).

CHAPTER II

Dacoity affected area and constitution of Special Courts.

3. *Declaration of dacoity affected area.*—If on receiving the report of a police officer or any other information in report of the incidence of scheduled offence in a district or districts or a part or parts thereof, the State Government considers that a situation has arisen in which the area covered by such district or districts or a part or parts thereof should be declared to be a dacoity affected area for the purposes of this Ordinance, the State Government may, by notification, declare such area to be a dacoity affected area.

4. *Person assisting the police to be public servant.*—(1) A person who assists the police in giving information or is engaged in assisting the Police by giving information relating to the commission of a scheduled offence or is assisting in the investigation of such offence, shall, for the purposes of this Ordinance, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XIV of 1960).

(2) A certificate issued by the Superintendent of Police to the effect that the person mentioned therein is a person who is engaged in assisting the Police for the purposes specified in sub-section (1) shall be conclusive proof of the facts stated therein.

5. *Regulation of grant of bail.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused or convicted of a scheduled offence shall, if in a custody, be released on bail or on his own bond unless,—

(a) the prosecution has been given opportunity to oppose the application for bail ; and

(b) where the prosecution opposes the application for bail, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence :

Provided that a person accused of a scheduled offence, who has been in custody for a total period of one hundred and eight days, may be released on bail subject to such conditions as the court may think fit to impose.

6. *Constitution of Special Courts.*—(1) For the purpose of providing speedy trial of the scheduled offences committed in a dacoity affected area, the State Government may, in consultation with the High Court, constitute, by Notification, as many Special Courts as may be necessary in, or in relation to, such dacoity affected area or areas as may be specified in such Notification.

(2) A special Court shall consist of a single Judge who shall be appointed by the Rajasthan High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word “appoint” shall have the meaning given to it in the Explanation to section 9 of the Code.

(3) A person shall not be qualified for appointment as a Judge of a Special Court unless he is serving as a Session Judge or an Additional Session Judge under the Code.

7. *Jurisdiction of Special Court.*—(1) Notwithstanding anything contained in the Code or in any other law for the time being in force, a scheduled offence shall be triable only by a Special Court.

(2) While trying any scheduled offence, the Special Court may also try at the same trial any offence other than the scheduled offence with which a scheduled offender may be charged under any law for the time being in force.

8. *Procedure and powers of Special Courts.*—(1) A Special Court may take cognizance of any scheduled offence—

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts; or

(c) upon information received from any person or a police officer, or upon its own knowledge that such offence has been committed.

(2) A special Court shall, while trying a scheduled offence, follow the procedure as prescribed by the Code for the trial of a Sessions Case.

Provided that a Special Court may, wherever necessary, perform the functions of a magistrate under Section 207 of the Code and proceed to try the case as if the case had been committed to the court of session for trial under the provisions of the Code.

(3) Save as otherwise expressly provided in this Ordinance, the provisions of the Evidence Act, 1872 (Central Act 1 of 1872) and the Code shall, in so far as they are not inconsistent with the provisions of this Ordinance, apply to the proceedings before a Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a court of session and the person conducting the prosecution before the Special Court shall be deemed to be a Public Prosecutor.

(4) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned with or privy to, any scheduled offence, tender pardon to such person on the condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other

person concerned, whether as principal or abettor, with the commission thereof. Any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 304 thereof.

(5) A Special Court may pass upon any accused person convicted by it any sentence prescribed by law for the offence of which such person is convicted.

CHAPTER III Offences and Penalty

9. *Punishment for offence against public servant*—A scheduled offender, who commits the offence of murder of more than one person or a scheduled offence against a public servant or against a member of the family of a public servant, shall,—

(a) if such offence is punishable with death or with imprisonment for life under the Indian Penal Code, 1860 (Central Act XLV of 1860) be awarded such punishment as is provided for that offence in the Code; and

(b) in other cases, be punished with imprisonment which may extend to ten years and with fine.

Explanation.—For the purposes of this section and section 10, a member of the family of a public servant shall mean his parents, spouse, sons and daughters, grand-sons and grand-daughters and great grand sons and great-grand daughters and their spouses and shall include a person dependent on and residing with such public servant.

10. *Reasons to be recorded for not awarding punishment of death.*—Notwithstanding anything contained in sub-section (3) of section 354 of Code, when the conviction under this Ordinance is made in respect of the murder of more than one person or the murder of a public servant or a member of his family and the sentence of death is not awarded, the judgment shall state the special reasons for not awarding the death sentence.

11. *Punishment for scheduled offences generally.*—A person who commits a scheduled offence shall, if no specific punishment is provided for that in the Indian Penal Code, 1860 (Central Act XLV of 1860) and that offence is also not punishable under section 9, be punished with imprisonment which may extend to ten years and with fine.

12. *Punishment for possessing property not satisfactorily accounted for.*—Where a person living in dacoity affected area is found to be in possession of properties in that area or elsewhere in Rajasthan for which he cannot satisfactorily account for and which has been acquired by, or as a result of, the commission of a scheduled offence, he shall be punished with imprisonment which may extend to seven years and with fine.

Provided that if and when an order of release is made by the Special Court under section 17, the accused shall, whatever be the stage of trial, be discharged and shall be released forthwith if he is under custody and his conviction, if any, shall be deemed not to have ever existed.

13. *Minimum period of imprisonment.*—Notwithstanding anything contained in section 11 and 12 or any other law, for the time being in force, the minimum punishment for a scheduled offence shall be an imprisonment for three years.

CHAPTER IV

Attachment and release of property

14. *Attachment of property.*—(1) If the District Magistrate has reason to believe that a person living in a dacoity affected area has committed an offence punishable under section 12, he may make a declaration to that effect and may order the attachment of the property in respect of which offence is believed to have been committed.

(2) The provision of the Code shall, *mutatis mutandis*, apply to every attachment made under sub-section (1).

(3) Notwithstanding anything otherwise contained in the Code, the District Magistrate may appoint an Administrator for any property attached under sub-section (1) and such an Administrator shall have all the powers to administer the property in the best interest of the property.

(4) The District Magistrate may provide police assistance to the Administrator for proper and effective administration thereof.

(5) The expenses incurred on the administration of the property including the expenses relating to the police assistance provided under sub-section (4) shall be a charge on such property.

15. *Release of property.*—(1) Where property is attached under section 14, its owner may, within three months of the date of knowledge of attachment, make a representation to the District Magistrate showing the circumstances in, and the means by, which the property was acquired by him.

(2) If the District Magistrate is satisfied with the representation made under sub-section (1), he may forthwith release the property from attachment and, thereupon, the property alongwith the profits, if any, after deducting all the expenses charged on the property shall vest in the owner thereof.

16. *Enquiry into the character of acquisition of property by Special Court.*—(1) If the District Magistrate is not satisfied with the representation made under section 15, he shall refer the matter, alongwith his report to the Special Court having jurisdiction for deciding whether the property or any part thereof was or was not acquired by, or as a result of, the commission of a scheduled offence.

(2) On receipt of the reference made under sub-section (1), the Special Court shall fix a date for enquiry and give notice to the person making the representation and to the State. On the date so fixed, or on any subsequent date to which the enquiry may be adjourned, the Special Court shall hear the parties, receive evidence produced by them, take such further evidence as it may consider necessary and decide the reference.

(3) For the purposes of making enquiry under sub-section (2), the Special Court shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or a copy thereof from any court or office;

(e) issuing commissions for examination of witnesses or documents;

(f) dismissing the reference for default or deciding it *ex parte*;

(g) setting aside an order of dismissal for default or an order passed by it *ex parte*; or

(h) any other matter which may be prescribed.

(4) In any proceeding under this section, the burden to prove that the property or any part thereof mentioned in the representation under section 15 was not acquired by, or as a result of, the commission of a scheduled offence shall be on the person claiming the property notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1 of 1872).

17. *Confiscation of property*.—If the Special Court finds that the property was acquired by, or as a result of, the commission of a scheduled offence, it shall order confiscation of the said property and shall transmit the record to the District Magistrate for execution of its order and in any other case the property shall be ordered to be released forthwith.

CHAPTER V

Appeals

18. *No appeal to lie unless otherwise provided*.—No order or decision made under this Ordinance shall be appealable except as hereinafter provided.

19. *Appeal from convictions*.—Any person convicted on a trial held by a Special Court under this Ordinance may appeal to the High Court.

20. *Appeal from acquittal*.—The State Government may in any case direct the public prosecutor to present an appeal to the High Court from an order of acquittal made by a Special Court under this Ordinance.

21. *Provisions of Code to apply to appeals*.—The provision of Chapter XXIX of the Code shall *mutatis mutandis* apply to every appeal preferred under section 19 or section 20.

22. *Appeal against order under section 17*.—An appeal shall lie to the High Court against every decision of the Special Court made under section 17.

CHAPTER VI

Miscellaneous

23. *Bar of jurisdiction of civil courts*.—No civil court shall have jurisdiction in respect of any matter which the special court is empowered by or under this Ordinance to determine and no injunction or interlocutory order interfering with the attachment or confiscation of property shall be granted or made by any court or other authority in respect of any power conferred by or under this Ordinance.

24. *Presumption in respect of kidnapping and abduction*.—In any trial of a Scheduled offence under this Ordinance, where it is provided that—

(a) the accused has kidnapped or abducted any person from dacoity affected area, it shall be presumed, unless the contrary is proved, that the accused has kidnapped or abducted such person for ransom; or

(b) the accused has wrongfully concealed or confined any person kidnapped or abducted from a dacoity affected area, it shall be presumed,

unless the contrary is proved, that the accused has concealed or confined such person knowing that such person has been so kidnapped or abducted.

25. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government for anything done in good faith in pursuance of the provisions of this Ordinance or the rules made thereunder.

(2) No prosecution against an Administrator appointed under sub-section (3) of section 14 shall be instituted unless previous sanction of the District Magistrate has been obtained therefor.

26. Ordinance to have over-riding effect.—The provisions of this ordinance shall effect, notwithstanding anything inconsistent therewith contained in any law for the time being in force

27. Power to make rules.—(1) The State Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect all or any of the provisions of this Ordinance.

(2) All rules made under this Ordinance, shall be laid, as soon as may be after they are so made, before the House of the State Legislature while it is in session for a period of not less than thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which they are so laid or of the session immediately following; the House of the State Legislature makes any modification in any such rules, or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to validity of anything previously done thereunder.

SCHEDULE

(1) Offence punishable under sections 216-A, 302, 303, 304, 307, 308, 311, 325, 326, 327, 329, 331, 333, 363, 364, 365, 368, 369, 386, 387, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402 and 511 of the Indian Penal Code 1860 (Central Act No. XLV of 1860)

(2) Kidnapping or abducting any person for ransom.

(3) Assembling or making preparation or attempt for kidnapping or abducting any person for ransom.

(4) Making or mending or performing any part of the process of making or mending, buying, selling, possessing, disposing of, supplying or carrying arms or ammunition or explosives for the commission of dacoity.

(5) Mediating in the settlement or standing surety for the payment of ransom to an abductor or a kidnapper.

(6) Spying for the persons assembled before or after the commission of dacoity or preparing to commit dacoity.

(7) Receiving benefits from the persons committing all or any of the above mentioned offences.

O. P. MEHRA,
Government of Rajasthan.

Published in the *Rajasthan Gazette, (Extra.)*, Part 4(Ga) I, dated
June 6, 1985.

RURAL DEVELOPMENT AND PANCHAYATI RAJ DEPARTMENT

G.S.R. 10.—(*Jaipur, January 16, 1985*)—In exercise of the powers conferred by sub-section (1) of Section 79 of the Rajasthan Panchayat Samities and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959), the State Government hereby makes the following amendment in the Rajasthan Panchayat Samities (Co-option of members) Rules, 1979, namely :—

AMENDMENT

1. *Short title and commencement*—These rules may be called the *Rajasthan Panchayat Samities (Co-option of members) Rules, 1984*.

2. In the Existing Rule 2 :—

- (a) Clause (V) shall be renumbered as Clause (ii),
- (b) Clause (ii) shall be renumbered as Clause (iii),
- (c) Clause (iii) shall be renumbered as Clause (V).

3. In the Existing rule 3 the expression "in the manner herein provided" shall be deleted.

4. In the Existing rule 4 the italic expression "Notice in Form 1 of not less than two clear days" occurring after the word "them" and before the word "for" shall be read in the original script of the rules.

5. In the end of existing rule 12 the punctuation mark "." occurring after the word "meeting" shall be deleted and the expression "and the presence of necessary quorum shall not be required at such adjourned meeting" shall be added.

6. In the end of existing sub-rule (1) of rule 17 after the word "rules" for the expression "will apply as far as may be" the expression "shall apply *mutatis mutandis*" shall be substituted.

REVENUE (Gr. IV) DEPARTMENT

G.S.R. 11—(*Jaipur, May 21, 1985*)—In exercise of the powers conferred by section 101, read with clause (xviii) of sub-section (2) of Section 261 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) and Section 28 of the Rajasthan Colonisation Act, 1954 (Rajasthan Act 27 of 1954), the State Government hereby makes the following amendment in the Rajasthan Land Revenue (Allotment of Unculturable Waste Land for Development of Private Forest) Rules, 1983, namely :—

AMENDMENT

In the said rules, for the existing clause (ii) of rule 2, the following shall be substituted, namely :—

"(ii) "Co-operative Society" means a Society registered under the Rajasthan Co-operative Societies Act, 1985 (Act No. 13 of 1985) and the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958) and the bye-laws of which permit the holding of land for forest development."

THE END

PART V

GUJARAT ACTS & ORDINANCES

1985

THE GUJARAT (SECOND SUPPLEMENTARY) APPROPRIATION ACT, 1984

The following Act of the Gujarat Legislature having been assented to by the Governor on the 2nd October, 1984 was published in the *Gujarat Govt. Gazette (Ext.)*, Part IV dated 17th October, 1984.

GUJARAT ACT 19 OF 1984

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the year ending on the thirty-first day of March, 1985.

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Gujarat (Second Supplementary) Appropriation Act, 1984.

(Text omitted)

THE INDUSTRIAL DISPUTES (GUJARAT AMENDMENT) ACT, 1984

The following Act of the Gujarat Legislature having been assented to by the President on the 20th October, 1984 was published in the *Gujarat Govt. Gazette (Ext.)*, Part IV, dated October 22, 1984.

GUJARAT ACT NO. 20 OF 1984

An Act further to amend the Industrial Disputes Act, 1947, in its application to the State of Gujarat.

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Industrial Disputes (Gujarat Amendment) Act, 1984.

2. *Insertion of new section 25SS in Act XIV of 1947.*—In the Industrial Disputes Act, 1947 (Act XIV of 1947) in its application to the State of

Gujarat (hereinafter referred to as "the principal Act"), after section 20S, the following new section shall be inserted, namely :—

"25SS. *Removal of doubts as to effect of other laws.*—For the removal of doubt it is hereby declared that notwithstanding anything contained in any other law for the time being in force in the State providing for settlement of Industrial disputes, the rights and liabilities of employers and workmen in relation to closure shall be determined in accordance with the provisions of this Chapter.

3. *Transitory Provision.*—Where before the commencement of the Industrial Disputes (Gujarat Amendment) Ordinance, 1984, any notice is served on the State Government or an authority specified under clause (c) of sub-section (1) of section 25N of the principal Act, and such notice is pending before the State Government or, as the case may be, such authority at the commencement of the said Ordinance, the same shall be disposed of by the State Government or such authority as if the principal Act had not been amended by the Industrial Disputes (Amendment) Act, 1984.

4. *Repeal and saving.*—(1) The Industrial Disputes (Gujarat Amendment) Ordinance, 1984 (Guj. Ord. 6 of 1984) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by clause (b) of section 2, clause (a) of section 4 and sections 12, 14 and 15 of the Industrial Disputes (Amendment) Act, 1982 and by sections 4, 5 and 6 of the Industrial Disputes (Amendment) Act, 1984 as if clause (b) of section 2, clause (a) of section 4 and sections 12, 14 and 15 of the Industrial Disputes (Amendment) Act, 1982 and sections 4, 5 and 6 of the Industrial Disputes (Amendment) Act, 1984 had in relation to the principal Act come into force on the 7th June, 1984.

Published in the *Gujarat Government Gazette*, (Ext.), Part IV,
dated December 5, 1984.

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL (GUJARAT AMENDMENT) ORDINANCE, 1984

GUJARAT ORDINANCE NO. 10 OF 1984

An Ordinance to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 for the purpose hereinafter appearing ;

And Whereas instructions of the President under the Proviso to clause (1) of article 213 of the Constitution have been obtained ;

Now, Therefore, in exercise of powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Ordinance, 1984.**

(2) It shall come into force at once.

2. *Bom. LVII of 1947 to be temporarily amended.*—During the period of operation of this Ordinance the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as “the principal Act”) shall have effect subject to the amendments specified in sections 3 to 6.

3. *Amendment of section 12 of Bom. LVII of 1947.*—In the Principal Act in section 12, in sub-section (3), in clause (b), for the portion beginning with the words “and thereafter continues and ending with the words “also pays costs of the suit as directed by the Court” the following shall be substituted, namely :—

“and thereafter,—

(i) continues to pay or tender in Court such rent and permitted increases till the suit is finally decided ; and

(ii) pays costs of the suit as directed by the Court.”

4. *Insertion of new section 13AA in Bom. LVII of 1947.*—In the principal Act, after section 13, the following section shall be inserted, namely :—

“13AA. *Right of members of armed forces of Union and their widows and heirs to recover possession of premises required for their occupation.*—(1) Notwithstanding anything to the contrary contained in this Act or in any contract,—

(a) a specified landlord shall be entitled to recover from his tenant the possession of any premises owned by him or by any member of his family on the ground that such premises are bona fide required by him for occupation by himself or by any member of his family and on receipt of an application made by the specified landlord for the purpose of recovery of possession of the premises, the competent authority shall make an order of eviction on that ground if the specified landlord produces a certificate granted by the authorised officer to the effect that,—

(i) he is a member of the armed forces of the Union, or that he was such a member and has retired as such, and

(ii) he does not possess any other premises suitable for residence in the local area where the premises are situated ;

(b) a successor-in-interest who becomes the landlord of the premises owned by such member of the armed forces of the Union, as a result of death of such member while in service or within five years of his retire-

ment, shall be entitled to recover possession of such premises on the ground that the premises are bonafid required for occupation by the successor-in-interest himself or by any member of the family of the deceased member and on receipt of an application made by the successor-in-interest for the purpose of recovery of possession of the premises, the competent authority shall make an order of eviction on that ground if the successor-in-interest produces a certificate granted by the authorised officer to the effect that,—

(i) the successor-in-interest is a widow or any other member of the family of the deceased member of the armed forces of the Union ; and

(ii) such successor-in-interest does not possess any other premises suitable for residence in the local area where such premises are situated.

(2) Any certificate granted under clause (a) or clause (b) of sub-section (1) shall be conclusive evidence of the facts stated therein.

(3) (a) No order for eviction, shall be made under this section if the competent authority is satisfied that having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the specified landlord or, as the case may be, the successor-in-interest or the tenant, greater hardship would be caused by making the order than by refusing to make it.

(b) Where the competent authority is satisfied that no hardship would be caused either to the tenant or to the specified landlord or, as the case may be, the successor-in-interest by making the order in respect of a part of the premises, the competent authority shall make the order in respect of such part only.

Explanation.—For the purpose of this section,—

(1) “authorised officer”, in relation to a member of the armed forces of the Union, means his commanding officer or head of service including—

(i) in the case of an officer retired from the Army, the Area Commander,

(ii) in the case of an officer retired from the Navy, the Flag officer Commanding-in-Chief, Naval Command, and

(iii) in the case of an officer retired from the Air Force, the Station Commander ;

(2) “competent authority” means the authority appointed under section 31A ;

(3) “member of the family” in relation to a member of the armed forces of the Union, means any of the following members of his family who is ordinarily residing with him and who is dependent on him, where such member has retired or died, any member of his family who

is so resident or dependent at the time of his retirement, or as the case may be, death, namely :—

spouse, father, mother, son, daughter, grandson, grand-daughter, son's wife, grandson's wife, widow of a predeceased son or grand-son ;

(4) "specified landlord" means a person who is a member of the armed forces of the Union or who was such member and has duly retired prematurely or otherwise and who or a member of whose family owns any premises ;

(5) "successor-in-interest" in relation to a deceased member of the armed forces of the Union means,—

(i) if the deceased member has a spouse living at the time of his death, such spouse, and

(ii) in any other case, any other member of his family."

5. *Insertion of new section 31A in Bom. LVII of 1947.*—In the principal Act, in Part II, after section 31, the following section shall be inserted, namely :—

"31A. *Special procedure for disposal of certain applications.*—(1) The State Government may, by notification in the Official Gazette appoint as many persons as it thinks fit as competent authorities for the purpose of exercising the powers conferred, and performing the duties imposed on the competent authority under this section and shall define the local limits within which any competent authority so appointed shall exercise such powers and perform such duties.

(2) A person shall not be qualified for appointment as a competent authority unless he had held a judicial office for at least five years or has been practising as an advocate or pleader for at least seven years.

(3) Notwithstanding anything to the contrary contained in this Act, an application for eviction on the ground specified in section 13-AA shall be made to the competent authority which shall deal with the application in accordance with the procedure laid down in this section.

(4) The competent authority shall issue summons, in relation to every application referred to in sub-section (3), in the form specified in Schedule IV.

(5) (a) The competent authority shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post (acknowledgement due), addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(b) When an acknowledgement purporting to have been required by the tenant or his agent is received by the competent authority or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article, the competent authority may declare that there has been a valid service of summons.

(6) The tenant, on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in Schedule IV, shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the competent authority as hereinafter provided and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(7) The competent authority shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in section 13AA.

(8) Where leave is granted to the tenant to contest the application, the competent authority shall commence the hearing of the application as early as practicable.

(9) The competent authority shall, while holding an inquiry in a proceeding to which this section applies, follow the practice and procedure of a Court of Small Causes, including the recording of evidence.

(10) No appeal shall lie against an order for the recovery of possession of any premises made by the competent authority in accordance with the procedure specified in this section :

Provided that the High Court may, for the purpose of satisfying itself that an order made in any case by the competent authority under this section is according to law, call for the record of that case and pass such order in respect thereto as it thinks fit.

(11) Where no application has been made to the High Court for revision, the competent authority may exercise the powers of review in accordance with the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908).

(12) If any person refuses or fails to comply with the order of the eviction within thirty days of the date on which it has become final, the competent authority or any other officer duly authorised by such competent authority in this behalf, may evict that person from and take possession of, the premises and deliver the same to the landlord and for that purpose, use such force as may be necessary.

(13) In respect of an application for eviction on the ground specified in section 13AA made to the competent authority the provisions of section 17

shall apply as if for sub-section (1) and (2) the following sub-section had been substituted, namely :—

“(1) Where an order for eviction has been made by the competent authority under section 13AA and the premises are not occupied or the premises are re-let within one year from the date the specified landlord or the successor-in-interest recovers possession, to any person other than the original tenant, the competent authority may on the application of the original tenant made within 13 months of such date order the specified landlord or the successor-in-interest to place the original tenant in occupation of the premises on the original terms and conditions, and on such order being made the specified landlord or the successor-in-interest or any person who may be in occupation of the premises shall give vacant possession to the original tenant.

(2) Any specified landlord or the successor-in-interest who recovers possession under section 13AA and keeps the premises unoccupied and any specified landlord or successor-in-interest or other person in occupation of the premises who fails to comply with the order of competent authority under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both”.

(14) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in section 13AA shall be the same as the procedure laid down for the disposal of application by the Court.

6. *Insertion of new Schedule of Bom. LVII of 1947.*—In the principal Act, after Schedule III, the following Schedule shall be inserted, namely :—

“SCHEDULE-IV

[See section 31A (4)]

Form of Summons in a Case Where Recovery of Possession of Premises is Prayed for on the Grounds Specified in Section 13AA.

(Name, description and place of residence of the tenant).

Whereas Shri..... has filed an application (a copy of which is annexed) for your eviction from (here insert the particulars of the premises) on the ground specified in section 13AA.

You are hereby summoned to appear before the Competent Authority within fifteen days of the service hereof and to obtain the leave of the competent authority to contest the application for eviction on the ground aforesaid ; in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the competent authority supported by an affidavit as referred to in sub-section (6) of section 31A.

Given under my hand and seal.

This

day of

19.

Competent Authority."

STATEMENT

In *Ganpat Ladha Vs. Sasikant Vismu Sinde* (1978) 19 G. L. R. 502 and *Mranalini Vs. Bapalal Mohanlal*, (1978) 19 G. L. R. 1090 the Supreme Court has held that if a tenant does not fulfil the conditions specified in clause (b) of sub-section (3) of section 12 of Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, he cannot claim the protection of that clause and in that event, there being no other protection available to him, a decree for eviction would have to go against him. The said clause (b) does not confer any discretionary jurisdiction on the Court. The Supreme Court construed the word "regularly" appearing in the said clause (b) as enjoining a payment or tender characterised by reasonable punctuality, and held that if a tenant persistently makes default during the pendency of the suit or appeal in paying the rent the court has no discretion to treat manifestly irregular payment as substitutal compliance with the mandate of the said clause (b). The hardship caused to tenants on account of aforesaid decisions of the Supreme Court could be removed if a tenant is permitted to pay or tender in Court rent and permitted increases according to the direction of the Court. It is, therefore, considered necessary to confer as suggested by the Supreme Court, a discretionary jurisdiction on a court to give directions in that behalf.

Under the existing provision in sub-section (1) of section 13 of the said Act, a landlord can recover the possession of his premises only if the court is satisfied as to the existence of any of the grounds specified in the said sub-section (1). It is considered necessary to make a special provision in the said Act to enable a member of armed forces of the Union to recover possession of his premises from the tenant while in service or after retirement.

It is also considered necessary to make a provision to enable a successor-in-interest who becomes the landlord of the premises owned by such member of the armed forces of the Union as a result of death of such member while in service or within five years of his retirement, to recover possession of the premises from the tenant.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 to achieve the aforesaid objects.

Gandhinagar, dated the 28th November, 1984.

B. K. NEHRU
Governor of Gujarat.

**THE GUJARAT PRIVATE FOREST (ACQUISITION)
(AMENDMENT) ORDINANCE, 1985**

Published in the *Gujarat Govt. Gazette, (Ext.)*, Part IV, dated January 7, 1985.

GUJARAT ORDINANCE NO. 1 OF 1985

An Ordinance to amend the Gujarat Private Forest Acquisition Act, 1972.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Private Forest (Acquisition) Act, 1972 (Guj. 14 of 1973) ;

And Whereas instructions of the President under the proviso to clause (1) of article 213 of the Constitution have been obtained ;

Now, Therefore in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Private Forest (Acquisition) (Amendment) Ordinance, 1984.

(2) It shall come into force at once.

2. *Gujarat Act 14 of 1973 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Private Forest (Acquisition) Act, 1972 (Guj. 14 of 1973) (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 6.

3. *Amendment of section 8 of Guj. 14 of 1973.*—In the principal Act, in section 8,—

(1) to sub-section (1), the following proviso shall be added, namely :—

"Provided that where the amount so determined exceeds rupees three lakhs, the award shall not be made without the previous approval of the State Government."

(2) sub-section (2) shall be deleted.

4. *Amendment of section 9 of Guj. 14 of 1973.*—In the principal Act, in section 9, in sub-section (1), for the words "shall be paid in cash" the words "shall be paid in the prescribed manner" shall be substituted.

5. *Amendment of section 11 of Guj. 14 of 1973.*—In the principal Act, in section 11, in sub-section (3), the following shall be added at the end, namely :—

"and the amount so awarded shall be paid in the prescribed manner."

6. *Amendment of section 17 of Guj. 14 of 1973.*—In the principal Act,

(a) section 17 shall be re-numbered as sub-section (1) of that section ; and

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) Nothing in sub-section (1) shall apply where an award has been made by the Collector under section 8 with the previous approval of the State Government."

STATEMENT

With a view to expediting the disposal of cases pertaining to the determination and payment of amounts to the owners of private forests for the extinguishment of rights under the Gujarat Private Forests (Acquisition) Act, 1972, it is considered necessary to amend section 8 of the said Act so as to authorise the Collectors appointed under the said Act to make awards for amounts upto three lakh rupees, and to provide that where the amount exceeds rupees three lakhs, the award shall be made with the previous approval of the State Government. At present the Collectors have power to make awards for amounts upto fifty thousand rupees only.

Sub-section (1) of section 9 of the Act provides for payment of amount in cash. In order that such payment can be made in any other manner, the said sub-section is amended to provide that the amount shall be paid in the manner prescribed by rules.

An opportunity is also taken to amend the sub-section (3) of section 11 of the Act to provide that the amount awarded under section 11 shall be paid in the prescribed manner.

Under the existing section 17 it would be competent to the State Government to revise awards made by the Collector with its previous approval. In cases where awards are approved by the State Government the revision of such awards by the State Government would not be necessary. The said section 17 is amended to exclude such awards from the scope of that section.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,

Dated the 4th January, 1985.

B. K. NEHRU

Governor of Gujarat.

THE GUJARAT PUBLIC MONEYS RECOVERY OF DUES (AMENDMENT AND VALIDATION) ORDINANCE, 1985

Published in the *Gujarat Govt. Gazette, (Ext.)*, date January 9, 1985

GUJARAT ORDINANCE NO. 2 OF 1985

An Ordinance further to amend the Gujarat Public Moneys (Recovery of Dues) Act, 1979 and to validate certain recoveries made thereunder.

Whereas the Legislative Assembly of the State of Gujarat is not in session;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Public Moneys (Recovery of Dues) Act, 1979 (Guj. 17 of 1979), and to validate certain recoveries made thereunder for the purposes hereinafter appearing;

Now, Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

1. *Short title and commencement.*—(1) The Ordinance may be called the Gujarat Public Moneys (Recovery of Dues) (Amendment and Validation) Ordinance, 1985.

(2) It shall come into force at once

2. *Guj. 17 of 1979 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Public Moneys (Recovery of

Dues) Act, 1979 (hereinafter referred to as "the principal Act") shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 2 of Guj 17 of 1979.*—In the principal Act, in section 2, after clause (a), the following clause shall be inserted, namely :—

"(ab) "Collector" includes an officer appointed by the State Government to perform the functions and exercise the powers of the Collector under this Act ;".

4. *Validation of recovery of dues of public moneys under principal Act.*—Notwithstanding anything contained in any judgement, decree or order of any court or any other authority, the recovery of dues of public moneys under the principal Act and any proceedings or action taken or thing done or purported to have been taken or done for purpose of recovery of such dues before the commencement of this Ordinance by any revenue officer not being the Collector, by virtue of powers of the Collector conferred on such revenue officer by a notification issued under section 19 of the Bombay Land Revenue Code, 1879 (Bombay V of 1879), to recover such dues under the principal Act shall, for all purposes, be deemed to be and to have always been validly made or taken or done by such revenue officer as if, at all material times when such recovery was made or proceedings or action taken or thing done the principal Act as amended by this Ordinance had been in force and such revenue officer had been appointed under clause (ab) of section 2 of the principal Act as so in force to perform the the functions and exercise the powers of the Collector under the principal Act as so in force ; and accordingly the validity of recovery of such dues or of any proceedings or action taken or thing done or purported to have been taken or done for the purpose of such recovery before the commencement of this Ordinance, shall not be called in question merely on the ground that such revenue officer was not authorised to recover such dues or to take proceedings or action or to do a thing for the purpose of such recovery.

STATEMENT

The Gujarat Public Moneys (Recovery of Dues) Act, 1979 provides for speedy recovery of certain classes of dues payable to the State Government, the State Financial Corporation and other Corporations owned or controlled by the State Government, Government Companies and nationalised and other Banks. Under sub-section (2) of section 3 of that Act, the Collector is empowered to recover the amount stated in certificate given to him, as arrears of land revenue. In respect of the dues of the Gujarat State Financial Corporation, the State Government has conferred the powers of Collector on a Deputy Collector under section 19 of the Bombay Land Revenue Code, 1879 for the purpose of recoveries of those dues under the Gujarat Act. The aforesaid conferment of powers of the Collector on the Deputy Collector was challenged in the High Court in certain Special Civil Applications made to it and the High Court in effect held that the Collector mentioned in sub-section (2) of the said section 3 cannot be a Deputy Collector (Recovery) who exercised functions under the Gujarat Act and High Court invalidated the actions taken by the Deputy Collector. It is, therefore, considered necessary to undertake legislation with a view to amending the Gujarat Act to take power to delegate powers

of the Collector on any other Officer of the Government for the purpose of recovery of dues under the Act and to validate the actions of a revenue officer other than the Collector.

As the Gujarat Legislative Assembly is not in session this Ordinance is promulgated to amend the Gujarat Act to achieve the aforesaid object.

Gandhinagar,
Dated the 8th January, 1985.

B. K. NEHRU,
Governor of Gujarat.

THE GUJARAT BACKWARD CLASSES DEVELOPMENT CORPORATION ORDINANCE, 1985

Published in the *Gujarat Govt. Gazette*, (Ext.), Part IV,
dated January 10, 1985.

ORDINANCE NO. 3 OF 1985

An Ordinance to provide for the establishment of a Corporation for the advancement of the socially and educationally backward class citizens in the State of Gujarat and for matters connected therewith.

Whereas the Gujarat Legislative Assembly is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for the advancement of the socially and educationally backward class citizens in the State of Gujarat and for matters connected therewith ;

Now, Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the **Gujarat Backward Classes Development Corporation Ordinance, 1985.**

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) “agriculture” includes dairy farming, poultry farming, breeding of livestock, pisciculture and forestry ; and the term “agricultural” shall be construed accordingly ;

(b) “socially and educationally backward class citizen” means a citizen belonging to any socially and educationally backward class specified in the Schedule ;

(c) “backward class organisation” means a firm registered under the Indian Partnership Act, 1932 (IX of 1932), or a society wherein all or a majority of partners or, as the case may be, all or a majority of members of such society, are socially and educationally backward class citizens.

Explanation.—Where a society (hereinafter referred to as “the principal society”) has as its member another society (hereinafter referred to as “the member society”) and all or a majority of members of such society are socially and educationally backward class citizens such member society shall be deemed to be a member of the principal society belonging to socially and educationally backward class citizens ;

- (d) "Chairman" means the Chairman of Corporation ;
- (e) "citizen" means citizen of India ;
- (f) "Corporation" means the Gujarat Backward Classes Development Corporation established under section 4 ;
- (g) "director" means a director of the Corporation and includes the Chairman ;
- (h) "managing director" means a director appointed as managing director under sub-section (3) of section 6 ;
- (i) "marketing" means all activities relating to the transport, grading, pooling, marketing and sale of agricultural or industrial produce, whether in the primary form or in semi-processed or processed form ;
- (j) "prescribed" means prescribed by rules made under this Ordinance.
- (k) "processing" means all activities relating to the processing of agricultural produce or industrial product so as to make it marketable or fit for consumption and it includes purchase and storage of raw material, purchase of equipment, and purchase, installation and running of machinery required for processing and storage of finished produce ;
- (l) "regulation" means a regulation made under section 28 ;
- (m) "small scale industry" means a cottage industry or an industry in which capital investment does not exceed such amount as may be prescribed ;
- (n) "society" means a society registered under the Societies Registration Act, 1860 (XXI of 1860) or a co-operative society registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1962) ;
- (o) "supply and storage" means supply and storage of agricultural inputs and establishment, maintenance and running of storages, cold storages and warehouses.

(Text of the Rest of the Act omitted)

THE GUJARAT HOUSING BOARD (AMENDMENT) ORDINANCE, 1985

Published in the *Gujarat Government Gazette (Ext.)*, Part IV, dated January 11, 1985.

GUJARAT ORDINANCE NO. 5 OF 1985

An Ordinance further to amend the Gujarat Housing Board Act, 1961.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Housing Board Act, 1961 (Guj. XXVIII of 1961) ;

Now, Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Housing Board (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the first day of December, 1982.

2. *Guj. XXVIII of 1961 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Housing Board Act, 1961 (Guj. XXVIII of 1961) (hereinafter referred to as “the principal Act”) shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 7 of Guj. XXVIII of 1961.*—In the principal Act, in section 7, after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) For the purpose of this section a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner.”.

STATEMENT

Proviso to sub-section (1) of section 5 of the Gujarat Housing Board Act, 1961 empowers the State Government to appoint two persons as members of the Board who possess technical knowledge and experience in the matter of construction of buildings. The State Government had appointed the Housing Commissioner as a member of the Board with effect from the 1st December, 1982 as one of such person. Subsequently, it was noticed that the Housing Commissioner was disqualified from being appointed or continuing as a member of the Board by virtue of clause (a) of sub-section (1) of section 7 of the said Act as he holds office or profit under the Board. It is, therefore, considered necessary to remove the aforesaid disqualification in so far as the Housing Commissioner is concerned and for that purpose to amend retrospectively section 7 of the said Act with effect from the 1st December, 1982.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar.

Dated the 10th January, 1985.

B. K. NEHRU

Governor of Gujarat,

THE GUJARAT RURAL HOUSING BOARD (AMENDMENT) ORDINANCE, 1985

Published in the *Gujarat Government Gazette*, (Ext.), Part IV, dated January 11, 1985

GUJARAT ORDINANCE NO. 6 OF 1985.

An Ordinance further to amend the Gujarat Rural Housing Board Act, 1972.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that the circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Rural Housing Board Act, 1972 (Guj. 22 of 1972) ;

Now, Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Rural Housing Board (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Guj. 22 of 1972 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Rural Housing Board Act, 1972 (Guj. 22 of 1972) (hereinafter referred to as “the principal Act”) shall have effect subject to the amendments specified in sections 3 and 4.

3. *Amendment of section 5 of Guj. 22 of 1972.*—In the principal Act, in section 5, in sub-section (1), in the proviso, for the portion beginning with the words “backward classes” and ending with the words “Construction of buildings”, the following shall be substituted, namely :—

“backward classes, two members shall be persons who possess technical knowledge and experience in the matter of construction of buildings, one member shall be an officer of the Government and one member shall be the Rural Housing Commissioner”.

4. *Amendment of section 7 of Guj. 22 of 1972.*—In the principal Act, in section 7,—

(1) in clause (a), the words “or the State Government” shall be deleted ;

(2) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) For the purpose of this section, a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner.”

STATEMENT

Clause (a) of sub-section (1) of section 7 of the Gujarat Rural Housing Board Act, 1972 disqualifies a person for being appointed as a member of the Board if he holds any office or place of profit under the Board or the State Government. In view of the aforesaid provision, the State Government is not in a position to appoint as members of the Board an officer of the Government although it has financial interests in the Board and the Rural Housing Commissioner for the administrative convenience of the Board. It is, therefore, considered necessary to amend sub-section (1) of section 5 and sub-section (1) of section 7 so that an officer of the State Government and the Rural Housing Commissioner can be appointed as members of the Board without the bar of the aforesaid disqualification.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar

Dated the 10th January, 1985.

B. K. NEHRU,

Governor of Gujarat.

THE GUJARAT SCHEDULED CASTES DEVELOPMENT CORPORATION ORDINANCE, 1985

Published in the *Gujarat Govt. Gazette, (Ext.)*, Part IV, dated January 10, 1985,

GUJARAT ORDINANCE NO. 4 OF 1985

An Ordinance to provide for the establishment of a Corporation for the

advancement of Scheduled Castes in the State of Gujarat and for matter connected therewith

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for the advancement of Scheduled Castes in the State of Gujarat and for matters connected therewith ;

Now, Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—This Ordinance may be called the **Gujarat Scheduled Castes Development Corporation Ordinance, 1985.**

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) “agriculture” includes, dairy farming, poultry farming, breeding of livestock, pisciculture, sericulture and forestry ; and the term “agricultural” shall be construed accordingly ;

(b) “Chairman” means the Chairman of the Corporation ;

(c) “Corporation” means the Gujarat Scheduled Castes Development Corporation established under section 3 ;

(d) “director” means a director of the Corporation and includes the Chairman ;

(e) “managing director” means a director appointed as managing director under sub-section (3) of section 5 ;

(f) “marketing” means all activities relating to the transport, grading, pooling, marketing and sale of agricultural or industrial produce, whether in the primary form or semi-processed or processed form ;

(g) “prescribed” means prescribed by rules made under this Ordinance ;

(h) “processing” means all activities relating to the processing of agricultural produce or industrial produce so as to make it marketable or fit for consumption and it includes purchase, and storage of raw material, purchase of equipment, and purchase installation and running of machinery required for processing and storage of finished produce ;

(i) “regulation” means a regulation made under section 27 ;

(j) “Scheduled Castes” means such castes or Communities or parts of, or groups within, such castes or communities as are deemed to be Scheduled Castes in relation to the State of Gujarat under article 341 of the Constitution of India ;

(k) “Society” means society registered under the Societies Registration Act, 1860 (XXI of 1860), or a co-operative society registered under the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1962) ;

(l) "Scheduled Castes Organisation" means a firm registered under the Indian Partnership Act, 1932 (IX of 1932), or a society, wherein all or a majority of the partners or, as the case may be, all or a majority of members whereof belong to Scheduled Castes.

Explanation.—Where a society (hereinafter referred to as "the principal society") has its member another society (hereinafter referred to as the "member society") all or a majority of members of which belong to Scheduled Castes, such member society shall be deemed to be a member of the principal society belonging to Scheduled Castes ;

(m) "small-scale industry" means cottage industry or an industry in which capital investment does not exceed such amount as may be prescribed ;

(n) "supply and storage," means supply and storage of agricultural or industrial inputs and establishment, maintenance and running of storage cold storages and warehouses.

CHAPTER II

Establishment and Constitution of the Corporation

3. *Establishment and incorporation of Corporation.*—(1) For the purpose of securing the uplift of Scheduled Castes in the State of Gujarat, the State Government may, by notification in the Official Gazette, establish a Corporation by the name of the Gujarat Scheduled Castes Development Corporation with effect from such date as may be specified in the notification.

(2) The Corporation shall be a body corporate, with perpetual succession and common seal and may sue and be sued in its corporate name and shall be competent to acquire, hold and dispose of property both moveable and immoveable, and to contract and do all things necessary for the purposes of this Ordinance.

4. *Head Quarters of Corporation.*—The headquarters of the Corporation shall be at Gandhinagar or at such other place as the State Government may, by notification in the Official Gazette, specify.

5. *Constitution of Corporation.*—(1) The Corporation shall consist of not more than fifteen directors who shall be nominated by the State Government :

Provided that not less than three directors shall be official and remaining directors shall be non-officials who shall be nominated from amongst persons who, in the opinion of the State Government, have special knowledge or practical experience in matters relating to agriculture, agro-industries, water development projects, finance, co-operation and socio-economic problems of Scheduled Castes :

Provided further that not less than six non-official directors shall belong to the Scheduled Castes.

(2) The State Government shall appoint one of the directors as Chairman.

(3) The State Government shall appoint one of the official directors to be the managing director of the Corporation.

6. *Term of office and conditions of appointment of directors.*—(1) A director other than the managing director, shall hold office for a term of two years from the date of his nomination :

Provided that an outgoing director shall, notwithstanding the expiration of his term continue to hold office until the nomination of his successor.

(2) An outgoing director shall be eligible for being renominated on the Corporation.

(3) Subject to the provisions of this Ordinance, the terms and conditions of the appointments of the directors other than the managing director and the fees and allowances payable to them shall be such as may be prescribed

7. *Filling up casual vacancies.*—On the occurrence of any vacancy in the office of a director due to death, resignation or any other reasons, the same shall be filled up by the State Government in the manner provided in section 5 and a person nominated as director to fill such vacancy shall hold office for the unexpired portion of the term of his predecessor.

8. *Disqualifications for office of director.*—A person shall be disqualified for being nominated as, and for being, a director, if he—

(a) is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is, or has been, convicted of any offence which, in the opinion of the State Government, involves moral turpitude or convicted under the Protection of Civil Rights Act, 1955 (XXII of 1955), or

(d) is, or has been, removed or dismissed from the service of any State Government or the Central Government or a Corporation owned or controlled by any State Government or the Central Government.

9. *Director not to participate in certain cases.*—A director who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Corporation shall, as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Corporation and the director shall not take any part in any deliberation or decision of the Corporation with respect to that matter.

10. *Removal and resignation of director.*—(1) Notwithstanding anything contained in section 6, the State Government may, at any time, remove any director from office, if, in its opinion, such a director—

(a) is, or has become, subject to any disqualification mentioned in section 8;

(b) is absent without leave of the Corporation from more than three consecutive meetings thereof without cause sufficient, in the opinion of the Corporation, to exonerate his absence;

(c) has acted in contravention of the provisions of section 9; or

(d) has been guilty of misconduct in the discharge of his duties;

Provided that no order of removal shall be passed without giving the director a reasonable opportunity of showing cause against the proposed order.

(2) A director may resign his office by giving notice thereof in writ-

ing to the State Government and on such resignation being accepted he shall be deemed to have vacated his office.

11 *Managing Director.*—(1) The managing director shall be a whole time officer of the Corporation and shall—

(a) be the Chief Executive Officer of the Corporation,
(b) be responsible for the operational management of the Corporation and implementation of the general policy approved by the Corporation,

(c) perform such duties as the Corporation may, by regulations or otherwise, assign to him,

(d) receive such salary and allowances and be governed by such terms and conditions of service as may be approved by the State Government in consultation with the Corporation.

(2) If the managing director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment the State Government may appoint another person to act in his place during his absence.

12. *Officers and other employees of Corporation.*—(1) The Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions and determine, by regulations or otherwise their conditions of appointment and service and the remuneration payable to them.

(2) The Corporation may, by general or special order, delegate to the managing director or to any other officer or employee of the Corporation, subject to such conditions and limitations, if any, as may, be specified, such of its powers and duties under this Ordinance, except the power to make as regulations, it may deem necessary.

13. *Meetings of Corporation.*—(1) The Corporation shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chariman or, if for any reasons he is unable to attend any meeting, any other director elected by the directors present at the meeting, shall preside at the meeting of the Corporation.

(3) All the questions which come up before any meeting of the Corporation shall be decided by a majority of the votes of directors present and voting, and in the event of an equality of votes, the Chairman or, in his absence, the persons presiding shall have and exercise a second or casting vote.

14. *Act and proceedings presumed to be valid notwithstanding any defect.*—

(1) No act or proceedings of the Corporation shall be questioned or be invalid on ground merely of the existence of any vacancy in, or any defect in, the constitution of the Corporation.

(2) No act done by person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his nomination.

15. *No disqualification in certain cases.*—No person shall be disqualified for being chosen as, or for being, a member of the Legislative Assembly

of the State by reason only of the fact that he is a chairman or a director.

CHAPTER III

Functions and Powers of Corporation

16. *Functions and powers of Corporation.*—(1) Subject to the provisions of this Ordinance, it shall be the primary duty of the Corporation to undertake the task of social and economical uplift of the Scheduled Castes in the State of Gujarat, and the Corporation shall be competent to do all things and to exercise all the powers necessary for the performance of such duties.

(2) Without prejudice to the generality of the foregoing provisions, such power of the Corporation shall include the power—

(i) to plan and promote, on its own or in collaboration with or through such Scheduled Castes organisations or other agencies as may be approved by the Corporation, any programme of agricultural development, marketing processing, supply and storage of agricultural produce, small-scale industry, building construction, transport and such other activities as may approved in this behalf by the State Government ;

(ii) to undertake, on its own or in collaboration whether through such Scheduled Castes organisations or other agencies as may be approved by the Corporation, any activity, in relation to any of the matters specified in clause (i), for furthering the objects of the Corporation ;

(iii) to give on hire agricultural or industrial machinery or equipments to the members of the Scheduled Castes organisations ;

(iv) to give grants and subsidies to and to guarantee loans taken by the members of Scheduled Castes organisations ;

(v) to encourage employment opportunities for the members of the Scheduled Castes ;

(vi) to undertake any other activity which the State Government may entrust to the Corporation ;

(vii) to grant loans or obtain covered loans to members of the Scheduled Castes ;

(viii) to borrow money subject to such conditions as the State Government may specify ;

(ix) to issue bonds and debentures ;

(x) to draw, make, accept, endorse, discount, execute and issue premissary notes, bills of exchange, hundis, bills, warrants, debentures and other negotiable instruments ;

(xi) to invest or deposit surplus funds of the Corporation in Government securities or in such other manner as the State Government may by general or special order direct ; and

(xii) to discharge such other functions as may be prescribed or as are supplemental, incidental or consequential to any of the functions conferred on it by under this Ordinance.

CHAPTER IV

Finance, Accounts and Audit

17. *State Government to provide initial capital.*—(1) The State Government may provide the Corporation such sum not exceeding ten crores of rupees as the State Government may think fit, as capital that may be required by the Corporation for the purpose of carrying out its functions :

Provided that where the capital initially provided is less than ten crores of rupees the State Government may, from time to time, increase the capital to sum not exceeding ten crores of rupees,

(2) Such capital may be provided subject to such terms and conditions as may be determined by the State Government:

(3) The capital so provided shall from part of the fund of the Corporation.

18. *Fund of Corporation.*—(1) The Corporation shall have its own fund.

(2) The Corporation may accept grants, subventions, donations and gifts from the Central or State Government or a local authority or any individual or body of individuals whether incorporated or not, for all or any of the purposes of this Ordinance.

(3) All sums which may from time to time be paid to it by the State Government and all other receipts of the Corporation shall be carried to the fund of the Corporation and all payments by the Corporation shall be made therefrom.

(4) The Corporation may spend such sums as it thinks fit for the performance of its functions under this Ordinance, and such sums shall be treated as expenditure payable out of the fund of the Corporation.

(5) All moneys belonging to the fund of the Corporation shall be deposited in such bank or invested in Government securities or in such other manner as the State Government may, by general or special order, direct.

19. *Accounts.*—(1) The balance sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Corporation shall cause books and accounts of the Corporation to be balanced and closed on the thirty first day of March every year.

20. *Audit.*—(1) The accounts of the Corporation shall be audited once in every financial year, by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956), who shall be appointed by the Corporation and shall receive such remuneration from the Corporation as the Corporation may fix.

(2) The auditors shall be supplied with a copy of the annual balance sheet and the income and expenditure account of the Corporation and it shall be the duty of the auditors to examine them together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may require from any director or officer of the Corporation such information as they may think necessary for the performance of their duties as auditors.

(3) The auditors shall make a report to the Corporation upon the annual balance sheet and accounts examined by them and in every such report shall state whether in their opinion, the balance sheet is a full and fair balance sheet containing necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Corporation.

(4) The Corporation shall furnish to the State Government a copy of its balance sheet and accounts together with a copy of the report made by auditors under sub-section (3) and a report on the working of the Corporation during the relevant period, within four months from the date on which its accounts are closed and balanced.

(2) Copies of the reports referred to in sub-section (4) shall be laid by the State Government, as soon as may be, before the State Legislature.

CHAPTER V

Miscellaneous

21. *Advisory Committee.*—(1) The State Government may from time to time constitute an Advisory Committee consisting of such number of persons as it may think fit and on such terms and conditions as may be prescribed.

(2) The Corporation may, if it thinks fit, consult the Advisory Committee on any business coming before it and shall do so in respect of such business as the State Government may, by general or special order in this behalf, specify or when required by the regulations so to do.

(3) The Advisory Committee shall meet at such intervals as may be prescribed, and for the transaction of urgent business on such other occasions as the Chairman of the Corporation may require.

(4) The number of members necessary to constitute a quorum at a meeting of the Advisory Committee shall be such as the State Government may when constituting the Committee specify.

22. *Recovery of money due to Corporation.*—(1) Where any amount is due to the Corporation from any person in respect of advance or other financial accommodation granted by it, such amount shall, on a certificate being granted by the managing director in the prescribed form, be recoverable as arrears of land revenue by the Collector of the district in which the person from whom the amount is due resides or carries on business or owns any property.

(2) Before issuing the certificate referred to in sub-section (1), the managing director shall make an application to such officer, as may be empowered by the State Government in this behalf and that officer shall, after giving an opportunity of being heard to the person concerned and after such further enquiry as he may consider necessary, by an order determine the amount due to the Corporation and communicate the same to the managing director.

(3) An appeal against an order passed by the officer empowered under sub-section (2) shall lie within such period and to such authority as may be prescribed.

(4) The officer empowered under sub-section (2) and the appellate authority shall follow such procedure as may be prescribed.

(5) The certificate issued by the managing director under sub-section (1) shall be final and conclusive and shall not be called in question before any authority or court.

(6) For the purpose of recovering any amount due to the Corporation in respect of a loan it shall not be necessary to proceed against the principal before proceeding against his surety.

23. *Dissolution.*—(1) No provision of law, other than this Ordinance, relating to the winding up, dissolution or liquidation of the companies or

corporation shall apply to the Corporation.

(2) The State Government may, if the Corporation fails to carry out its functions or exceeds its powers, or upon a receipt of a report under section 20, call upon the Corporation to show cause why it should not be dissolved and if no explanation is offered within the specified period or if the State Government is not satisfied with the explanation, the State Government may dissolve the Corporation from such date as may be specified.

24. Consequence of dissolution of Corporation.—(1) When the Corporation is dissolved under section 23,—

(i) all directors shall, from the date of dissolution, vacate their offices,

(ii) all powers and duties of the Corporation shall, during the period of dissolution, be exercised and performed by such person as the State Government may appoint in this behalf,

(iii) all funds and other property vested in the Corporation shall, during the period of dissolution, vest in the State Government.

(2) The State Government may reconstitute the Corporation after such period as it may think fit.

25. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Corporation or any director including the managing director, or any officer or other employees or any other person authorised by the Corporation to discharge any functions under this Ordinance, for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done by him in pursuance of this Ordinance.

26. Indemnity to directors.—(1) Every director shall be indemnified against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for the acts of any other director or for the acts of any officer or other employee of the Corporation or for any loss or expenses resulting to the Corporation by the insufficiency or deficiency of value of, or title to any property or security acquired or taken on behalf of the Corporation in good faith, or by the insolvency or wrongful act of any debtor or any person under obligation to the Corporation, or anything done in good faith, in the execution of the duties of his office or in relation thereto.

27. Power of Corporation to make regulations.—(1) The Corporation may make regulations not inconsistent with the provisions of this Ordinance and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

(2) In Particular and without prejudice to the generality of the foregoing power, such regulations, may provide for all or any of the following matters, namely :—

(a) the time and places of meeting of the Corporation and the procedure to be followed in relation to such meetings including the quorum necessary for the transaction of business ;

- (b) duties which the managing director shall perform ;
- (c) the duties, conduct, salaries, allowances and conditions of service of officers and other employees of the Corporation ;
- (d) the delegation of powers and functions to the officers and other employees of the Corporation ;
- (e) the establishment and maintenance of provident and other benefit funds for the officers and employees of the Corporation ;
- (f) any other matter which is, or may be, necessary for the efficient conduct of the affairs of the Corporation.

28. *Power of State Government to make rules* —(1) The State Government may, by notification published in the Official Gazette, make rules to carry out all or any of the purposes of this Ordinance.

(2) In particular and without prejudice to generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the terms and conditions of service of the directors and the fees and allowances payable to them ;
- (b) functions, in addition to those specified in sub-section (2) of section 16, to be discharged by the Corporation and the conditions and restrictions subject to which those functions shall be discharged ;
- (c) the form and manner in which accounts shall be maintained and the balance-sheet and income and expenditure accounts shall be prepared ;
- (d) the form in which certificate shall be issued by the managing director, the period within which and the authority before whom an appeal shall be filed, and the procedure to be followed by the appellate authority under section 22 ;

(e) any other matter which is required to be, or may be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

STATEMENT

In this State, the Scheduled Castes constitute 7.15% of the total population of the State. To tackle effectively the problems facing the members of the Scheduled Castes, it is considered necessary to set up a Statutory Corporation, which would take adequate measures for the social educational economic advancement and for the general amelioration of the condition of the members of the Scheduled Castes.

2. As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to make a special provision for achieving aforesaid objects.

B. K. NEHRU,
Governor of Gujarat.

**THE GUJARAT (SUPPLEMENTRY) APPROPRIATION
ACT, 1985**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 29th March, 1985 was published in the *Gujarat Govt. Gazette, (Ext.)*, Part IV, dated March 29, 1985.

GUJARAT ACT NO. 1 OF 1985

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the year ending on the thirty-first day of March, 1985.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Gujarat (Supplementary) Appropriation Act, 1985.

(Text omitted)

**THE GUJARAT APPROPRIATION (VOTE ON ACCOUNT)
ACT, 1985**

The following Act of Gujarat Legislature having been assented to by the Governor on the 29th March, 1985 was published in the *Gujarat Govt. Gazette, (Ext.)*, Part IV, dated March 29, 1985.

GUJARAT ACT NO. 2 OF 1985

An Act to authorise withdrawal of certain sums from and out of Consolidated Fund of the State of Gujarat for the services of a part of the financial year ending on the thirty-first day of March, 1985.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act of may be called the Gujarat Appropriation (Vote on Account) Act, 1985.

(Text omitted)

**THE GUJARAT AGRICULTURAL PRODUCE MARKETS (AMEND-
MENT) ORDINANCE, 1985**

The following Ordinance was published in the *Gujarat Govt. Gazette, (Ext.)*, Part IV, dated February 14, 1985.

GUJARAT ORDINANCE NO 7 OF 1985

An Act further to amend the Gujarat Agricultural Produce Markets Act, 1963.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Agricultural Produce Markets Act, 1963 (Guj. XX of 1964) ;

Now, Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) The Ordinance may be called the Gujarat Agricultural Produce Markets (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Guj. XX of 1964 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Agricultural Produce Markets Act,

1963 (Guj. XX of 1964) (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in section 3 to 9.

3. *Amendment of section 2 of Guj XX of 1964.*—In the principal Act, in section 2—

(a) after clause (ii), the following clause shall be inserted, namely :—

"(ii-a) "Board" means the Gujarat State Agricultural Marketing Board established under section 34 :";

(b) after the clause (v), the following clause shall be inserted, namely :—

"(v-a) "Development Fund" means the State Agricultural Marketing Development Fund established under section 34-L :";

(c) after clause (xviii), the following clause shall be inserted, namely :—

(xvii-a) "regulations means regulations made under section 59A :";

4. *Deletion of section 34 of Guj XX of 1964.*—In the principal Act, in Chapter V, section 34 shall be deleted.

5. *Insertion of new Chapter V-A in Guj XX of 1964.*—In the principal Act, after Chapter V, the following new chapter shall be inserted, namely :—

"CHAPTER VA

The Gujarat State Agricultural Marketing Board

34. *Establishment of State Agricultural Marketing Board.*—(1) The State Government may, by notification in the Official Gazette, establish, with effect from such date as may be specified in such notification, a Board to be called "the Gujarat State Agricultural Marketing Board."

(2) The Board shall be a body corporate, and shall have perpetual succession and a common seal, and may in its corporate name sue and be sued and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and to do all other things necessary for the purpose for which it is established.

(3) The Board shall be deemed to be a local authority within the meaning of clause (26) of section 3 of the Bombay General Clauses Act, 1904 (Bom. of 1904).

34A. *Constitution of Board.*—(1) The Board shall consist of the following members, namely :—

(i) the Chairman, who shall be nominated by the State Government ;

(ii) six members, who shall be agriculturists to be elected by the Chairman of the market committees ;

(iii) three members to be elected by the representatives of the traders and commission agents residing in the market areas in the State ;

(iv) the Secretary to the Government of Gujarat, Agriculture and Rural Development Department, ex-officio ;

(v) the Secretary to the Government of Gujarat, Co-operation Department, ex-officio ;

(vi) the Registrar of Co-operative Societies, Gujarat State, ex-officio ;

(vii) the Director of Agriculture, Gujarat State, ex-officio ;

(viii) the Director of Animal Husbandry, Gujarat State, ex-officio ;

(ix) the Director of Agricultural Marketing, Gujarat State, ex-officio ;

(x) the Agricultural Marketing Advisor to the Government of India or his representative ;

(xi) the Managing Director of the Board, ex-officio :

Provided that when the Board is constituted for the first time, the members under clauses (ii) and (iii) above shall be persons nominated by the State Government and shall hold office for a period of two years from the date of their nomination, such period being extensible by the State Government for a further period of two years so however that the total period shall not exceed four years in the aggregate.

(2) The Secretary to the Government of Gujarat, Agriculture and Rural Development Department shall be the ex-officio Vice-Chairman of the Board.

(3) (a) Election of the members of the Board under clauses (ii) and (iii) of sub-section (1) shall be held in such manner as may be prescribed.

(b) Any dispute relating to the election of the members referred in clause (a) of this sub-section shall be referred to the State Government or an officer authorised by the State Government in this behalf, and the decision of the State Government or the officer so authorised, as the case may be, shall be final.

(4) The State Government shall cause the names of the members of the Board who are elected under clause (ii) or (iii) of sub-section (1) to be published in the Official Gazette.

34B. Disqualification for election on Board.—A person shall be disqualified for being elected as a member of the Board, if he—

(a) does not ordinarily reside within the State and whose name is not included in the electoral roll of the Gujarat Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950 (XLIII of 1950), and which is for the time being in force ; or

(b) has not completed the age of 25 years ; or

(c) is of unsound mind and stands so declared by a competent court ;
or

(d) is an uncertified bankrupt or undischarged insolvent ; or

(e) has been convicted of any offence which, in the opinion of the State Government, involves moral turpitude , or

(f) is a Director, Secretary, Manager or other salaried officer of any incorporated company or any firm which has any share or interest in any contract or employment with, by or on behalf of, the Board or any market committee ; or

(g) has been, at any time, found guilty of an offence punishable under this Act.

34C. Term of office and conditions of service of members.—(1) Save as otherwise provided in section 34B, every member of the Board, whether elected or nominated, shall hold office for a period upto the end of four years,—

(a) in the case of an elected member, from the date of publication of his name in the Official Gazette under sub-section (4) of section 34 A ; and

(b) in the case of a nominated member, from the date of his nomination :

Provided that the State Government may, from time to time by, notification in the Official Gazette, extend the term of office of such members for a further period not exceeding one year in the aggregate.

(2) Every member of the Board shall be paid such allowances and fees as may be prescribed.

(3) The allowances and fees to the members shall be paid from the Development Fund.

34D. Meetings of Board.—(1) The Board shall meet at such time and places, and shall subject to the provisions of sub-section (2) observe such rules of procedure in regard to the transactions of its business as may be provided by regulations.

(2) A member, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into, by or on behalf of the Board or any market committee, shall at the earliest possible opportunity disclose the nature of his interest to the Board and shall not be present at any meeting of the Board when the contract, loan, arrangement or proposal is discussed unless he is required by the other members for the purpose of eliciting information, and shall not vote thereon.

34E. Cessation of membership.—(1) If a member—

(a) becomes subject to any of the disqualifications mentioned in section 34B, or

(b) tenders his resignation in writing to, and such resignation is accepted by, the Managing Director, and in the case of the Chairman, by the State Government, or

(c) is absent without the permission of the Board from all meetings of the Board for a period of three consecutive months, he shall cease to be a member.

(2) In every case where a dispute arises as to whether a member has ceased to be a member or not it shall be decided by the State Government after giving an opportunity to the member to be heard.

34F. Vacancies how to be filled.—Any vacancy of a member of the Board shall be filled as early as practicable, and in the like manner as if the nomination or election were being made under section 34A :

Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

34G. Temporary absence of members.—Where the Chairman or any other member of the Board is by reasons of illness or otherwise rendered temporarily incapable of carrying out his duties, or is granted leave of absence in the case of the Chairman by the State Government and in the case of a member by the Board, or is otherwise unable to attend to his duties in circumstances not involving the cessation of his membership under section 34E, the State Government may appoint another person to act in his place and carry out duties and functions entrusted to him by or under this Act until such Chairman or member, as the case may be, resumes his duties :

Provided that when no person is appointed to act during the absence of

the Chairman, the Vice-Chairman shall be competent to carry out the duties and functions of the Chairman.

34H. *Proceeding presumed to be good and valid.*—No disqualification of or defect in the appointment of, any person acting as the Chairman or Vice-Chairman or a member of the Board shall vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

34L. *Officers and servants of Board and their conditions of service, etc.*—

(1) The State Government shall appoint a Managing Director of the Board who shall also be the Chief Executive Officer of the Board.

(2) The Board may appoint such other officers and servants, subordinate to the Chief Executive Officer as it considers necessary for the efficient performance of its duties and functions.

(3) The conditions of appointment and service of the officers and servants and their scale of pay shall—

(a) as regards the Managing Director be such may be prescribed, and

(b) as regards the other officers and servants, be such as may be determined by regulations.

34J. *Powers and functions of Board*—The Board shall, subject to the provisions of this Act, perform the following functions and shall have powers to do such things as may be necessary or expedient for carrying out such functions, namely :—

(i) to co-ordinate the working of the market committees and other affairs thereof including programmes undertaken by such market committees for development of principal market yards, sub-market yards and provisions of infrastructural facilities and amenities ;

(ii) subject to orders or directions, if any, of the State Government in this regard, to undertake the State level planning of the development of agricultural produce markets ;

(iii) to administer the Development Fund ;

(iv) with the prior approval of the State Government, to give advice to market committees in general or to any market committee in particular with a view to ensuring efficiency thereof ;

(v) to approve proposals for selection of any new site by a market committee for establishment of principal market yard or sub-market yard ;

(vi) to approve proposals for constructing infrastructural facilities in, or in hinterland of a principal market yard or sub-market yard ;

(vii) to supervise and guide market committees in preparation of plans and estimates of construction programmes undertaken by the market committees ;

(viii) to execute all works chargeable to the Development Fund ;

(ix) to maintain accounts in such forms as may be prescribed and get the same audited in such manner as may be laid down in the regulations ;

(x) to publish annually at the close of the year, progress report, balance sheet, and statement of assets and liabilities and send copies thereof to each member of the Board, the State Government and the Director of Agricultural Marketing, Gujarat State.

(xi) to prepare and adopt budget for the ensuing year ;

(xii) to make necessary arrangement for education, propaganda and publicity on matters relating to regulated marketing of agricultural produce ;

(xiii) to assist, undertake and promote market survey and research in the field of agricultural marketing ;

(xiv) to assist and undertake collection, compilation, dissemination and publication of market intelligence and statistics in respect of agricultural produce ;

(xv) to promote and undertake grading and standardisation of agricultural produce ;

(xvi) to provide facilities for training of officers and staff of market committees ;

(xvii) to arrange and organise seminars, workshops, camps, conferences, exhibitions in the State on agricultural marketing ;

(xviii) to grant subsidy and loans to market committees for the purpose of this Act on such terms and conditions as the Board may by regulations determine ;

(xix) to give assistance to market committees in technical, legal and administrative matters and maintain staff for rendering such assistance ;

(xx) to promote and assist orderly marketing of agricultural produce in areas where there is no regulation of market under this Act ;

(xxi) to do such other things and perform such other acts as it may think necessary or expedient for the proper conduct of its business and the carrying into effect the purpose of this Act.

34K. Power and duties of Managing Director.—The Managing Director appointed by the State Government under section 34I shall—

(i) appoint officers and servants of the Board in accordance with the procedure prescribed by regulations ;

(ii) exercise supervision and control over officers and servants of the Board ;

(iii) incur expenditure from the Development Fund on sanctioned items of work ;

(iv) in cases of emergency, direct the execution or stoppage of any work and doing of any act which requires the sanction of the Board ;

(v) prepare annual budget of the Board in consultation with Director of Agricultural Marketing, Gujarat State, for consideration of the Board ;

(vi) arrange for internal audit of the Board ;

(vii) arrange for convening and holding of the meetings of the Board and maintain records of the proceedings of the meetings of the Board in such manner as may be prescribed by regulations ;

(viii) take such steps as may be deemed necessary for execution of decisions of the Board ;

(ix) authenticate, by his signature, orders, decisions and other documents of the Board ;

(x) inspect construction works undertaken by the market committees, either from their own funds or grants provided by the Board or any other agencies, and report omissions in such construction works to the Board and the Director of Agricultural Marketing, Gujarat State and take all corrective measures ;

(xi) report to the State Government, all such acts either of the market committees or of the Board, as are contrary to the provisions of this Act, the rules and the regulations ;

(xii) take such steps as may be deemed necessary for effective discharge of the functions of the Board.

34L. Establishment and administration of State Agricultural Marketing Development Fund.—(1) There shall be established a fund to be called the State Agricultural Marketing Development Fund which shall be maintained and administered by the Board.

(2) The amount standing to the credit of the State Agricultural Produce Market Fund under section 34 immediately before the commencement of the Gujarat Agricultural Produce Markets (Amendment) Ordinance, 1985 (Guj Ord 7 of 1985) shall, on such commencement, stand transferred to, and from the corpus of, the Development Fund established under sub-section (1).

(3) The following shall form part of, or be paid into, the Development Fund, namely :—

(a) all contributions received by the Board from the market committees under sub-section (1) of section 34M ;

(b) all contributions, grants and loans made or sanctioned to the Board by the State Government under sub-section (2) of section 34M ;

(c) any sums borrowed by the Board with the previous approval of the State Government ;

(d) all incomes or moneys received by the Board from any source whatsoever including income or charge levied by it or donations or grants, received from the local authorities, market committees or other institutions and individuals ;

(e) amounts recovered as an arrear of land revenue under sub-section (3) of section 34T ;

(f) such other sums as the State Government may, from time to time, specify.

(4) All expenditure incurred by the Board shall, from time to time, be defrayed out of the Development Fund and surplus, if any, shall be invested by the Board in public securities or shall be deposited in any scheduled bank, as defined in the Reserve Bank of India Act, 1934 (11 of 1934) or in a co-operative bank approved by the State Government for this purpose.

34M. Contributions to be paid to Board.—(1) Every market committee shall pay to the Board as contribution an amount equal to such percentage of its income as may be prescribed from time to time by the State Government.

(2) The State Government may, every year, make payment to the Board, by way of contribution, grants or loans of an amount not exceeding five percent of the aggregate amount contributed to the Board by the market committees under sub-section (1)

(3) The contribution or payment received by the Board under sub-section (1) and sub-section (2) shall be credited to the Development Fund.

34N Power of Board to borrow.—(1) The Board, may, from time to time, with the previous approval of the State Government and subject to the provisions of this Act and to such conditions as the State Government may, by general or special order, determine, borrow any sum required for the purposes of this Act by issue of bonds or stocks.

(2) Such bonds or stocks shall be issued, transferred, dealt with or redeemed in such manner as the State Government may, by general or special order, direct.

(3) The Board may, for carrying out the provisions of this Act, borrow money from the State Government or may, with the previous approval of the State Government, borrow money—

(i) from any schedule bank or other bank or financial institutions or other agency ; or

(ii) by issue of debentures on the security of any property vested in the Board or on security of a part of its future income accruing to it under this Act.

34O. Utilisation of Development Fund—(1) The Development Fund may be utilised by the Board for discharging its functions under this Act.

(2) Without prejudice to the generality of the foregoing provisions, the Board may utilise the Development Fund for all or any of the following purposes, namely :—

(a) supervision, regulation and improvement of markets established for the purposes of this Act ;

(b) giving aid to market committees in the form of loans or grants to enable them to discharge their duties and functions under this Act ;

(c) payment of salaries, allowances, pensions, gratuities and compassionate grants to the Government servants, if any, serving under the Board ;

Provided that all expenditure under this clause shall be a first charge on the Development Fund ;

(d) payment of allowances and fees to the members of the Board ;

(e) imparting education and giving publicity in the matters connected with the regulated marketing ;

(f) meeting legal expenses relating to the functions of the Board ;

(g) giving technical and administrative assistance to market committees including maintenance of staff for rendering assistance to market committees for the following purposes, namely :

(i) Engineering ;

(ii) Legal assistance ; and

(iii) Inspection ;

(h) imparting training to officers and servants of market committees or organising or arranging camps, workshops, seminars or conferences or exhibitions on development of marketing of agricultural produce ;

(i) grading and standardization of agricultural produce ;

(j) market survey, research and collection, compilation, dissemination, and publication of market information, statistics ;

(k) undertaking functions of a market committee in areas where there is no market committee or where a market committee is not viable ;

(l) construction of principal market yards, and sub-market yards and leasing or transferring them to market committees ;

(m) establishment and maintenance of office of the Board ;

(n) expenditure on audit of accounts of the Board ;

(o) sanctioning of loans and advances to the employees of the Board ;

(p) with the prior approval of the State Government, any other purposes connected with the marketing of agricultural produce, in any market area or market declared or deemed to be declared as such under this Act ;

(q) any of the matters connected with, or incidental to, any of the purposes specified in clauses (a) to (p).

34P. Audit of accounts.—(1) The accounts of the Board shall be audited annually by such auditors and on payment of such audit fees, as may be prescribed.

(2) The Board may, with the prior approval of the State Government, make arrangements for internal audit of its accounts in consultation with the Examiner of Local Fund Audit.

(3) To carry out the auditing under this section, the auditors shall have access to all relevant record of the Board.

34Q. Delegation of powers.—Subject to the rules made in this behalf, the Board may, by general or special order, delegate to the Chairman, or Managing Director, or any sub-committee appointed by it under section 34R or to any officer of the Board, such of the powers and duties as are conferred on the Board by or under this Act.

34R. Appointment of Sub-committees.—The Board may appoint sub-committees consisting of its members, which may include the Chairman, Vice-Chairman, or the Managing Director, for the purposes of performing any of its duties or functions conferred on it by or under this Act.

34S. Power of State Government to hold inquiry.—(1) The State Government with a view to satisfying itself that the powers, functions and duties conferred on the Board by or under this Act are exercised and performed by it properly may, at any time, appoint any persons or persons to make inquiries into all or any of the activities of the Board in such manner as may be prescribed and to report to it the result of such inquiries.

(2) The Board shall give to the persons so appointed all facilities for the proper conduct of the inquiries and shall produce before such per-

son or persons any document or information in possession of the Board, if such person or persons so demand for the purpose of such inquiry.

34T. Liability of chairman, other members, officers and servants of Board for loss, waste or misapplication of funds.—(1) The Chairman, other members, officers or servants of the Board shall be liable for the loss, waste or misapplication of any money or property of the Board, if such loss, waste or misapplication is, in the opinion of the State Government, a direct consequence of the neglect or misconduct on his part as such Chairman, other member, officer or servant.

(2) If after giving such Chairman, other member, officer or servant a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the Chairman, other member, officer or servant was party to the loss, waste or misapplication of any money or property of the Board or that the loss, waste or misapplication is a direct consequence of the neglect or misconduct on his part, the officer so authorised shall, by an order in writing, direct such chairman, other member, officer, or servant, as the case may be, to pay to the Board within two months, the amount required to be reimbursed to it for such loss waste or misapplication.

(3) If the amount is not so reimbursed it shall be recovered as an arrear of land revenue under the order of the officer so authorised and credited to the Development Fund.

(4) Any person aggrieved by the order or action of the officer so authorised may within one month from the decision or action apply to the State Government for redress of his grievance.

(5) The State Government may, after hearing the applicant and taking such evidence as it thinks necessary confirm, modify or set aside the order and also make such order as to costs as it thinks proper.

34U. Supersession or Board for default.—(1) If the State Government after giving the Board an opportunity to render an explanation is satisfied that the Board has made a default in performing any duty or obligation imposed or cast on it by or under this Act the State Government may fix a period for the performance of that duty or obligation and give notice to the Board accordingly.

(2) If in the opinion of the State Government the Board fails or neglects to perform such duty or obligation within the period so fixed for its performance, the State Government may by order supersede the Board and thereafter reconstitute the Board :

Provided that no such order shall be made unless an opportunity is given to the Board to show cause against such order.

(3) After the supersession of the Board and until it is reconstituted in the manner laid down in this Chapter, the powers, duties and functions of the Board shall be carried on by the State Government or by such officer or officers or body of officers as the State Government may appoint for the purpose from time to time and the cost thereof shall be met from the Development Fund.

(4) All property vested in the Board, shall during the period of supercession, vest in the State Government.

6. *Amendment of Section 57 of Guj. XX of 1964.*—In the principal Act, in section 57, after the words “a market Committee” the words “and the Board” shall be inserted.

7. *Amendment of section 58 of Guj. XX of 1964.*—In the principal Act, in section 58, in sub-section (1), after the words “market committee” where they occur at two places the words “or the Board” shall be inserted.

8. *Amendment of section 59 of Guj. XX of 1964.*—In the principal Act, in section 59, in sub-section (2), after clause (iv), the following new clause shall be inserted, namely :—

(iv-a) the manner of election of members of the Board under clause (a) of sub-section (3) of section 34A ;

(iv-b) the allowances to be paid to a member of the Board under sub-section (2) of section 34C ;

(iv-c) the conditions of appointment and service and pay-scale of the Managing Director under clause (a) of section (3) of section 34I ;

(iv-d) the forms in which accounts shall be maintained under clause (ix) of section 34J ;

(iv-e) the percentage of the income of market committees at which the market Committees shall pay contribution to Development Fund under sub-section (1) of section 34M ;

(iv-f) the auditors by whom and the audit fees on payment of which accounts of the Board shall be audited annually under sub-section (1) of section 34P ;

(iv-g) the delegation of powers and duties by the Board under section 34Q ;

(iv-h) the manner in which inquiries into all or any of the activities of the Board shall be made under sub-section (1) of section 34S ;

9. *Insertion of new section 59-A in Guj. XX of 1964.*—In the principal Act, after section 59, the following new section shall be inserted namely :—

“59.A. *Regulations.*—(1) The Board may, with the previous approval of the State Government, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Board.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the time and date at which and the place where meetings of the Board shall be held, the procedure in regard to transaction of its business (including quorum) at such meetings under sub-section (1) of section 34D ;

(b) the conditions of appointment and service of officers and servants of the Board under clause (b) of sub-section (3) of section 34I ;

(c) the manner in which accounts of the Board shall be audited under clause (ix) of section 34J ;

(d) the terms and conditions on which subsidy and loans to market committees may be granted under clause (xviii) of section 34J ;

(e) the procedure to be followed under clause (i) of section 34K in appointing officers and servants of the Board ;

(f) the manner in which the record of the proceedings of the meetings of the Board shall be maintained under clause (vii) of section 34K ;

(g) authentication of orders, decisions and other documents of the Board under clause (ix) of section 34K ;

(h) any other matter which is expressly required or allowed by this Act to be prescribed by regulations.”.

STATEMENT

In order to ensure proper planning and development of agricultural produce markets all over the State in a balanced manner as also to provide, among other things, technical, financial and legal assistance to market committees, it is proposed to establish a statutory Board under the Gujarat Agricultural Produce Markets Act, 1963 (Guj. XX of 1964) to be called the Gujarat State Agricultural Marketing Board. The proposed Board shall consist of 18 elected and nominated members. The Central Government, which extends financial assistance under the Central scheme for development of regulated market yards and sub-market yards, has also made a suggestion for the establishment of such a statutory Board in the State.

As the Gujarat Legislative Assembly is not in session, this ordinance is promulgated to amend the said Act to achieve the aforesaid purposes.

Gandhinagar,

Dated the 25th January, 1985.

B. K. NEHRU,
Governor of Gujarat.

THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF DISQUALIFICATIONS) (AMENDMENT) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 12th April, 1985 was published in the *Gujarat Government Gazette (Ext.)*, Part IV, dated April 12, 1985

GUJARAT ACT NO. 3 OF 1985

An Act further to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

1. *Short title.*—This Act may be called the **Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Act, 1985.**

2. *Amendment of the Schedule to Gujarat 1 of 1980.*—In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, (Guj 1 of 1960) in the Schedule, after entry 23, the following entry shall be added, namely :—

“24. The Office of Government Chief Whip.”.

THE GUJARAT PUBLIC MONEYS (RECOVERY OF DUES) (AMENDMENT AND VALIDATION) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 9th April 1985 and was published in the *Gujarat Government Gazette. (Ext.)*, Part IV, dated April 17, 1985

GUJARAT ACT 4 OF 1985

An Act further to amend the Gujarat Public Moneys (Recovery of dues) Act 1979 and to validate certain recoveries made thereunder.

It is hereby enacted in the Thirty sixth Year of Republic of India as follows :—

1. *Short title and commencement* —(1) This Act may be called the **Gujarat Public Moneys (Removal of Dues) (Amendment and Validation) Act 1985.**

(2) It shall be deemed to have come into force on the 9th January 1985.

2. *Amendment of section 2 of Guj. 17 of 1979.*—In the Gujarat Public Moneys (Recovery of Dues) Act, 1979 (hereinafter referred to as “the principal Act”) in section 2 after clause (a), the following clause shall be inserted, namely :—

“(ab) “Collector” includes an officer appointed by the State Government to perform the functions and exercise the powers of the Collector under this Act ;”.

3. *Validation of recovery of dues of public moneys under principal Act.*—Notwithstanding anything contained in any (judgment, decree or order of any court or any other authority the recovery of dues of public moneys under the principal Act and any proceedings or action taken or thing done or purported to have been taken or done for the purpose of recovery of such dues before the commencement of this Act by any revenue officer not being the Collector, by virtue of powers of the Collector conferred on such revenue officer by a notification issued under section 19 of the Bombay Land Revenue Code, 1879 (Bombay V of 1879.) to recover such dues under the principal Act shall for all purposes, be deemed to be and to have always been validly made or taken or done by such revenue

officer as if, at all material times when such recovery was made or proceedings or action taken or thing done the principal Act as amended by this Act had been in force and such revenue officer had been appointed under clause (ab) of section 2 of the principal Act as so in force to perform the functions and exercise the powers of the Collector under the principal Act as so in force; and accordingly the validity of recovery of such dues or of any proceedings or action taken or thing done or purported to have been taken or done for the purpose of such recovery before the commencement of this Act, shall not be called in question merely on the ground that such revenue officer was not authorised to recover such dues or to take proceedings or action or to do a thing for the purpose of such recovery."

4. *Repeal and savings.*—(1) The Gujarat Public Moneys (Recovery of Dues) (Amendment) Ordinance, 1985 (Gujarat Ordinance 2 of 1985) is hereby repealed

(2) Notwithstanding such repeal any thing done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE GUJARAT PRIVATE FORESTS (ACQUISITION) (AMENDMENT) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the President on the 24th April, 1985, published in the *Gujarat Government Gazette (Ext.)*, Part IV, dated April 25, 1985

GUJARAT ACT NO. 6 OF 1985.

An Act further to amend the Gujarat Private Forests (Acquisition) Act, 1972

It is hereby enacted in the Thirty sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Gujarat Privates Forest (Acquisition) (Amendment) Act, 1985.**

(2) It shall be deemed to have come into force on the 7th January 1985.

2. *Amendment of section 8 of Gujarat 14 of 1973.*—In the Gujarat Private Forests (Acquisition) Act, 1972 (hereinafter referred to as "the principal Act"), in section 8,—

(1) to sub-section (1), the following proviso shall be added, namely :—

"Provided that where the amount so determined exceeds three lakhs of rupees the award shall not be made without the previous approval of the State Government.";

(2) sub-section (2) shall be deleted.

3. *Amendment of section 9 of Gujarat 14 of 1973.*—In the principal Act in section 9, in sub-section (1), for the words "shall be paid in cash" the words "shall be paid in the prescribed manner" shall be substituted.

4. *Amendment of section 11 of Gujarat 14 of 1973.*—In the principal Act, in section 11, in sub-section (3), the following shall be added at the end, namely :—

"and the amount so awarded shall be paid in the prescribed manner."

5. *Amendment of section 17 of Gujarat 14 of 1973.*—In the principal Act, section 17 shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

“(2) Notwithstanding anything contained in sub-section (1) no record of any inquiry or proceedings of the Collector in relation to an award made by him under section 8 with the previous approval of the State Government shall be called for nor shall any order be passed thereon by the State Government, under sub-section (1).”

6. *Repeal and saving.*—(1) The Gujarat Private Forest (Acquisition) (Amendment) Ordinance, 1985 (Guj. Ord. 1 of 1985), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE GUJARAT HOUSING BOARD (AMENDMENT) (SECOND) ORDINANCE, 1985

Published in the *Gujarat Government Gazette (Ext.)*, Part IV,
dated April, 27 1985

GUJARAT ORDINANCE NO. 8 OF 1985

An Ordinance further to amend the Gujarat Housing Board Act, 1961.

Whereas the Legislative Assembly of State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Housing Board Act, 1961 :

Now Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgated the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Housing Board (Amendment) (Second) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 1st December, 1982.

2. *Gujarat XXVIII of 1961 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Housing Board Act, 1961 (Gujarat XXVIII of 1961) (hereinafter referred to as “the principal Act”) shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 7 of Gujarat XXVIII of 1961.*—In the principal Act; in section 7, after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) For the purpose of this section a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner.”

4. *Repeal and Savings.*—The Gujarat Housing Board (Amendment) Ordinance, 1985, (Gujarat Ordinance 5 of 1985), is hereby repealed.

STATEMENT

Proviso to sub-section (1) of section 5 of the Gujarat Housing Board Act, 1961 empowers the State Government to appoint two persons as mem-

bers of the Board who possess technical knowledge and experience in the matter of construction of buildings. The State Government had appointed the Housing Commissioner as a member of the Board with effect from the 1st December, 1982 as one of such persons. Subsequently, it was noticed that the Housing Commissioner was disqualified from being appointed or continuing as a member of the Board by virtue of clause (a) of sub-section (1) of section 7 of the said Act as he holds office of profit under the Board. It was therefore, considered necessary to remove the aforesaid disqualification in so far as the Housing Commissioner is concerned and for that purpose to amend retrospectively section 7 of the said Act with effect from the 1st December, 1982.

As the Gujarat Legislative Assembly was not in session at the time, the Gujarat Housing Board (Amendment) Ordinance, 1985 (Gujarat Ordinance 5 of 1985) was promulgated to achieve the aforesaid object. The said Ordinance was laid before the Gujarat Legislative Assembly in its session held on 19th March, 1985. Thereafter the Bill called the Gujarat Housing Board (Amendment) Bill, 1985 (Gujarat Bill No 3 of 1985) was published with a view to replacing the aforesaid Ordinance. However, as the said session which was summoned mainly for the purpose of taking vote on account, was of a short duration, the aforesaid Bill could not be taken up. By virtue of sub-clause (a) of clause (2) of article 213 of Constitution the aforesaid Ordinance would cease to operate at the expiration of six weeks from the 18th March, 1985 being the date of reassembly of the Gujarat Legislative Assembly i. e. on the 29th April, 1985. Therefore, as the Gujarat Legislative Assembly is not in session this Ordinance is promulgated to achieve the aforesaid object.

Camp at Delhi.

Dated the 27th April, 1985.

B. K. NEHRU,
Governor of Gujarat.

THE GUJARAT RURAL HOUSING BOARD (AMENDMENT) (SECOND) ACT, 1985

Published in the *Gujarat Government Gazette (Ext.)*, Part IV, dated
April 27, 1985

GUJARAT ORDINANCE NO. 9 OF 1985

An Ordinance further to amend the Gujarat Rural Housing Board Act, 1972.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Rural Housing Board Act, 1972 (Gujarat 22 of 1972) ;

Now Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Rural Housing Board (Amendment (Second) Ordinance, 1985.

(2) It shall come into force at once.

2. *Gujarat 22 of 1972 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Rural Housing Board Act,

1972 (Gujarat 22 of 1972) (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 and 4.

3 *Amendment of section 5 of Gujarat 22 of 1972*—In the principal Act, in section 5, in sub-section (1), in the proviso, for the portion beginning with the words "backward classes" and ending with the words "construction of buildings", the following shall be substituted, namely :—

"backward classes, two members shall be persons who possess technical knowledge and experience in the matter of construction of buildings, one member shall be an officer of the Government and one member shall be the Rural Housing Commissioner".

4. *Amendment of section 7 of Gujarat 22 of 1972*.—In the principal Act, in section 7,—

(1) in sub-section (1), in clause (a), the words "or the State Government" shall be deleted ;

(2) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) For the purpose of this section, a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner."

5. *Repeal and Savings*.—(1) The Gujarat Rural Housing Board (Amendment) Ordinance, 1985 (Gujarat Ordinance 5 of 1985) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

STATEMENT

Clause (a) of sub-section (1) of section 7 of the Gujarat Rural Housing Board Act, 1972 disqualifies a person for being appointed as a member of the Board if he holds any office or place of profit under the Board or the State Government. In view of the aforesaid provision, the State Government was not in a position to appoint as members of the Board an officer of the Government although it has financial interests in the Board and the Rural Housing Commissioner for the administrative convenience of the Board. It was, therefore, considered necessary to amend sub-section (1) of section 5 and sub-section (1) of section 7 so that an officer of the State Government and the Rural Housing Commissioner can be appointed as members of the Board without the bar of the aforesaid disqualification. As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Rural Housing Board (Amendment) Ordinance, 1985 (Guj. Ordinance 6 of 85) was promulgated to achieve the aforesaid object. The said Ordinance was laid before the Gujarat Legislative Assembly in its session held on 19th March, 1985. Thereafter, a Bill, called the Gujarat Rural Housing Board (Amendment) Bill, 1985, was published with a view to replacing the said Ordinance. However, the said session, which was summoned to take vote on account, was a short duration, the aforesaid Bill could not be taken up. By virtue of sub-clause (a) of clause 2 of article 213 of the Constitution the aforesaid Ordinance would cease to operate at the expiration of six weeks from the 18th March, 1985 being the date of reassembly of the Gujarat Legislative Assembly i. e. on the 29th April, 1985. There-

fore, as the Gujarat Legislative Assembly is not in session this Ordinance is promulgated to achieve the aforesaid object.

Camp at Delhi

Dated the 27 April, 1985.

B. K. NEHRU,
Governor of Gujarat.

THE GUJARAT TAX ON SALE OF ELECTRICITY ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 12th April, 1985, was published in the *Gujarat Government Gazette*, (Ext.), dated April 17, 1984.

GUJARAT ACT NO. 5 OF 1985

An Act to levy tax on the sale of electricity in the State of Gujarat.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title, extent and commencement*—(1) This Act may be called the **Gujarat Tax on Sale of Electricity Act, 1985**.

(2) It extends to the whole of the State of Gujarat.

(3) It shall be deemed to have come into force on the 1st October, 1984.

2. *Definitions*.—In this Act, unless the context otherwise requires,—

(a) “consumer” means any person (not being a licensee) who is supplied with energy, on payment of charges, by a licensee ;

(b) “energy” means electrical energy when generated, transmitted, or used for any purpose except the transmission of a message ;

(c) “licensee” means any person licensed under Part-II of the Indian Electricity Act, 1910 (IX of 1910), to supply energy and includes any person who has obtained the sanction of the State Government under section 28 of that Act, the State Government when it is engaged in a business of supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (LIV of 1948) ;

(d) “prescribed” means prescribed by rules made under this Act ;

(e) “sale” means sale of electricity made within the State, to a consumer for cash or deferred payment or other valuable consideration, and the word “sell” with all its grammatical variation and cognate expressions shall be construed accordingly ;

Explanation—For the purposes of this clause, “sale” within the State includes a sale determined to be inside the State in accordance with the principal formulated in sub-section (2) of section 4 of the Central Sales Tax Act, 1956 (LXXIV of 1956).

(f) “sale price” means the amount of valuable consideration paid or payable to a licensee for any sale made but does not include the amount of meter charges, interest on delayed payment or fuse off call charge and reconnection charges ;

(g) “tax” means a tax imposed under this Act ;

(h) “turnover of sales” means aggregate of the amount of sale price received and receivable by a licensee in respect of sale of electricity made during a given period after deducting the amount of sale price if any refunded by the licensee.

3. *Levy of tax on sale of electricity*.—Subject to the provisions of this Act, on and from the commencement of this Act, there shall be levied and

collected a tax on the turnover of sales of electricity at such rate not exceeding five paise in the rupees, as the State Government may, by notification in the Official Gazette, specify and different rate may be specified for turnover of sales of electricity relating to different classes of consumers.

4. *Incidence of tax*.—Every licensee shall be liable to pay tax under this Act on his turnover of sales made on or after the commencement of this Act

5. *Taxes payable by licensee*.—Subject to the provisions of this Act and to any rules made thereunder there shall be paid to the State Government by every licensee the tax leviable under section 3 at such intervals and in such manner as may be prescribed.

6. *Exemption*—(1) Subject to such conditions as it may impose, the State Government may, if it considers it necessary so to do in the public interest, by notification in the Official Gazette, exempt any specified class of sales from payment of the whole or any part of the tax payable under the provisions of this Act.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the Legislature or to such modifications as the State Legislature may make, during the session in which it is so laid or the session immediately following. Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

7. *Licensee to keep books of account and submit returns*.—Every licensee shall keep books of account in the prescribed form submit to the State Government in this behalf, return in such form and at such intervals as may be prescribed showing the units of energy sold by him, the sale price received by him and the amount of tax payable thereon and the amount of tax already paid by him.

8. *Inspecting officer*—(1) The State Government may, by notification in the Official Gazette, appoint any person having the prescribed qualifications to be Inspectors for the purposes of this Act.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

9. *Powers of Inspectors*—(1) Subject to the provisions of any rules made by the State Government in this behalf, an Inspector may—

(i) require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of tax leviable under this Act ;

(ii) enter and search any premises where energy is, or is believed to be supplied for the purpose of—

(a) verifying the statements made in the books of account kept, and returns submitted, under section 7,

(b) testing the reading of meters,

(c) verifying the particulars required in connection with the levy of the tax ;

(iii) exercise such other powers and perform such other duties as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

(2) All searches made under sub-section (1) shall be made in accor-

dance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974)

10. *Recovery of tax*—Any sum due on account of tax if not paid at the intervals and in the manner prescribed shall be deemed to be in arrears, and thereupon such interest (not exceeding 12% per annum) which the State Government may, by general or special order fix shall be payable on such sum; and the sum together with interest thereon shall be recoverable through a Civil Court or as an arrear of land revenue at the option of the State Government, or any officer authorised by the State Government in this behalf.

11. *Refund of tax*—The State Government may, by rules prescribe the circumstances in which and conditions subject to which a refund of the whole or any part of the tax may be granted to a licensee.

12. *Penalties*.—If any person—

(a) fails to keep books of account, or to submit returns in accordance with the provisions of section 7 and the rules made in that behalf, or

(b) willfully obstructs an Inspector in the exercise of the powers conferred, or in the discharge of duties imposed, upon him by or under this Act,

he shall on conviction, be punished with fine which may extend to one thousand rupees.

13. *Offences by Companies*.—(1) Where an offence under this Act has been committed by a company, every person who at the time when the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means a partner in the firm.

14. *Protection of action taken in good faith*.—No suit, prosecution or other proceeding shall lie against any servant of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

15. *Power to make rules*.—The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe under section 5 the rules, if any, subject to which and the intervals at which and the manner in which, the tax leviable under section 3 shall be paid to the State Government by every licensee;

(b) prescribe under section 7 the form in which books of account shall be kept, and the form in, and intervals at, which returns shall be submitted ;

(c) prescribe the qualifications of Inspectors under section 8 ;

(d) prescribe the rules, if any, subject to which the Inspectors may exercise the powers under section 9 ;

(e) prescribe the circumstances in which and conditions subject to which refund may be granted under section 11.

(3) In making any rules under this section the State Government may direct that a breach thereof shall be punishable with fine not exceeding one thousand rupees, and when the offence is continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following

(6) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall there upon take effect.

16. *Savings*—For the avoidance of doubt, it is hereby declared that nothings in this Act shall be taken to impose, or authorise the imposition of, a tax on the sale of electricity (whether produced by Government or other persons) which is—

(a) sold to the Government of India for consumption by that Government, or

(b) sold to the Government of India or any railway of the Government of India for consumption in the construction, maintenance or operation of any railway,

(c) sold to any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river valley, for its consumption.

Explanation.—For the purposes of this section the expression “existing law” shall have the meaning assigned to it in clause (10) of article 366 of the Constitution.

17. *Repeal and savings.*—(1) The Gujarat Tax on Sale of Electricity Ordinance, 1984 (Gujarat 9 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

Published in the *Gujarat Government Gazette, Extraordinary*,
Part IV, dated April 27, 1985

**THE GUJARAT AGRICULTURAL PRODUCE MARKETS
(AMENDMENT) (SECOND) ORDINANCE, 1985**

GUJARAT ORDINANCE NO. 10 OF 1985

An Ordinance further to amend the Gujarat Agricultural Produce Markets Act, 1963.

Whereas the Legislative Assembly of the State of Gujarat is not in session;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Agricultural Produce Markets Act, 1963 (Guj. XX of 1964);

Now, Therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Gujarat Agricultural Produce Markets (Amendment) (Second) Ordinance, 1985.**

(2) It shall come into force at once.

[Text of the Ordinance is omitted as this Ordinance is replace, earlier Ordinance No. 7 of 1985, which has already been published at page 25.

Editor]

**THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES
CONTROL (GUJARAT AMENDMENT) ACT, 1985**

The following Act of the Gujarat Legislature having been assented to by the President on the 26th April, 1985 was published in the *Gujarat Govt. Gazette, (Ext.)*, Part IV, dated April 29, 1985.

GUJARAT ACT NO. 7 OF 1985

An Act further to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the **Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Act, 1985.**

(2) It shall come into force at once.

2. *Amendment of section 12 of Bom. LVII of 1947.*—In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947) (hereinafter referred to as “the principal Act”), in section 12, in sub-section (3), in clause (b), for the portion beginning with the words “and thereafter continues” and ending with the words “also pays costs of the suit as directed by the Court” the following shall be substituted, namely:—

“and thereafter,—

(i) continues to pay or tender in Court such rent and permitted, increases till the suit is finally decided; and

(ii) pays-costs of the suit
as directed by the Court”

3. *Insertion of new section 13AA in Bom. LVII of 1947.*—In the principal Act, after section 13, the following section shall be inserted, namely:—

“13AA. *Right of members of armed forces of Union and their widows and heirs to recover possession of premises required for their occupation.*—(1) Not-

withstanding anything to the contrary contained in this Act or in any contract,—

(a) a specified landlord shall be entitled to recover from his tenant the possession of any premises owned by him or by any member of his family on the ground that such premises are *bonafide* required by him or occupation by himself or by any member of his family and on receipt of an application made by the specified landlord for the purpose of recovery of possession of the premises, the competent authority shall make an order of eviction on that ground if the specified landlord produces a certificate granted by the authorised officer to the effect that,—

(i) he is a member of the armed forces of the Union, or that he was such a member and has retired as such, and

(ii) he does not possess any other premises suitable, for residence in the local area where the premises are situated ;

(b) a successor-in-interest who becomes the landlord of the premises owned by such member of the armed forces of the Union, as a result of death of such member while in service or within five years of his retirement, shall be entitled to recover possession of such premises on the ground that the premises are *bonafide* required for occupation by the successor-in-interest himself or by any member of the family of the deceased member and on receipt of an application made by the successor-in-interest for the purposes of recovery of possession of the premises, the competent authority shall make an order of eviction on that ground if the successor-in-interest produces a certificate granted by the authorised officer to the effect that,—

(i) the successor-in-interest is a widow or any other member of the family of the deceased member of the armed force of the Union ; and

(ii) such successor-in-interest, does not possess any other premises suitable for residence in the local area where such premises are situated.

(2) Any certificate granted under clause (a) or clause (b) of subsection (1) shall be conclusive evidence of the facts stated therein.

(3) (a) No order for eviction shall be made under this section if the competent authority is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the specified landlord or, as the case may be the successor-in-interest or the tenant, greater hardship would be caused by making the order than by refusing to make it.

(b) Where the competent authority is satisfied that no hardship would be caused either to the tenant or to the specified landlord or, as the case may be, the successor-in-interest by making the order in respect of a part of the premises, the competent authority shall make the order in respect of such part only.

Explanation.—For the purpose of this section,—

(1). “authorised officer”, in relation to a member of the armed forces of the Union, means his commanding officer or head of service including—

(i) in the case of an officer retired from Army, the Area Commander,

(ii) in the case of an officer retired from the Navy, the Flag Officer Commanding-in-Chief, Naval Command, and

(iii) in the case of an officer retired from the Air force, the Station Commander;

(2) "competent authority" means the authority appointed under section 31A ;

(3) "member of the family" in relation to a member of the armed force of the Union, means any of the following members of his family who is ordinarily residing with him and who is dependent on him and where such member has retired or died, any member of his family who is so resident or dependent at the time of his retirement, or as the case may be, death, namely :—

spouse, father, mother, son, daughter, grandson, grand-daughter, son's wife, grandson's wife, widow of a predeceased son or grand-son ;

(4) "specified landlord" means a person who is a member of the armed forces of the Union or who was such member and has duly retired prematurely or otherwise and who or a member of whose family owns any premises ;

(5) "successor-in-interest" in relation to a deceased member of the Union means,—

(i) if the deceased member has a spouse living at the time of his death, spouse, and

(ii) in any other case, any other member of his family."

4. *Insertion of new section 31A in Bombay LVII of 1947.*—In the principal Act, in Part II, after section 31, the following section shall be inserted, namely :—

"31A. *Special procedure for disposal of certain application*—(1) The State Government may, by notification in the *Official Gazette* appoint as many persons as it thinks fit as competent authorities for the purposes of exercising the powers conferred, and performing the duties imposed on the competent authority under this section and shall define the local limits within which any competent authority so appointed shall exercise such powers and perform such duties.

(2) A person shall not be qualified for appointment as a competent authority unless he had held a judicial office for at least five years or has been practising as an advocate or pleader for at least seven years.

(3) Notwithstanding anything to the contrary contained in this Act, an application for eviction on the ground specified in section 13AA shall be made to the competent authority which shall deal with the application in accordance with the procedure laid down in this section.

(4) The competent authority shall issue summons, in relation to every application referred to in sub-section (3), in the form specified in Schedule IV.

(5) (a) The competent authority shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post (acknowledgement due), addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(b) When an acknowledgement purporting to have been signed by the tenant or his agent is received by the competent authority or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article,

the competent authority may declare that there has been a valid service of summons.

(6) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in Schedule IV shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the competent authority as hereinafter provided and in default of his appearance in pursuance of the summons or his obtaining such leave the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(7) The competent authority shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in section 13AA.

(8) Where leave is granted to the tenant to contest the application the competent authority shall commence the hearing of the application as early as practicable.

(9) The competent authority shall, while holding an inquiry in a proceeding to which this section applies, follow the practice and procedure of a Court of Small Causes, including the recording of evidence.

(10) No appeal shall lie against an order for the recovery of possession of any premises made by the competent authority in accordance with the procedure specified in this section :

Provided that the High Court may, for the purpose of satisfying itself that an order made in any case by the competent authority under this section is according to law, call for the record of that case and pass such order in respect thereto as it thinks fit.

(11). Where no application has been made to the High Court for revision, the competent authority may exercise the powers of review in accordance with the provisions of Order XLVII of the first Schedule to the Code of Civil Procedure, 1908 (V of 1908).

(12) If any person refuses or fails to comply with the order of the eviction within Thirty days of the date on which it has become final, the competent authority or any other officer duly authorised by such competent authority in this behalf, may evict that person from and take possession of, the premises and deliver the same to the landlord and for that purpose, use such force as may be necessary.

(13) In respect of an application for eviction on the ground specified in section 13AA made to the competent authority the provisions of section 17 shall apply as if for sub-sections (1) and (2) the following sub-section had been substituted, namely :—

“(1) Where an order for eviction has been made by the competent authority under section 13AA and the premises are not occupied or the premises are re-let within one year from the date the specified landlord or the successor-in-interest recovers possession, to any person other than the original tenant, the competent authority may on the application of the original tenant made within 13 months of such date order the specified landlord or the successor-in-interest to place the original tenant in occupation of the premises on the original terms and conditions, and on such order being made the specified landlord or the successor-in-interest or any

person who may be in occupation of the premises shall give vacant possession to the original tenant.

(C) Any specified landlord or the successor-in-interest who recovers possession under section 13AA and keeps the premises unoccupied and any specified landlord or successor-in-interest or other person in occupation of the premises who fails to comply with the order of the competent authority under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both."

(14) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in section 13AA shall be the same as the procedure laid down for the disposal of application by the Court."

5. *Insertion of new Schedule to Bombay LVII of 1947.*—In the principal Act, after Schedule III, the following Schedule shall be inserted, namely :—
"SCHEDULE IV.

[See section 31A (4)]

Form of Summons in a Case Where Recovery of Possession of Premises is prayed for on the ground specified in section 13AA.

(Name, description and place of residence of the tenant)

Whereas Shri has filed an application (a copy of which is annexed) for your eviction from (here insert the particular of the premises) on the ground specified in section 13AA ;

You are hereby summoned to appear before the Competent authority within fifteen days of the service thereof and to obtain the leave of the competent authority to contest the application for eviction on the ground aforesaid ; in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the competent authority supported by an affidavit as is referred to in sub-section (6) of section 31A.

Given under my hand and seal.

This

day of

19

Competent Authority."

6. *Repeal and savings*—(1) The Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Ordinance 1984 (Gujarat Ordinance 10 of 1984) is hereby repealed.

(2) Notwithstanding such repeal anything done or, any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE GUJARAT PREVENTION OF ANTI-SOCIAL ACTIVITIES ORDINANCE, 1985.

Published in the *Gujarat Govt. Gazette (Ext)*, Part IV, dated May 27, 1985

GUJARAT ORDINANCE NO. 11 OF 1985.

An Ordinance to provide for preventive detention of boot-leggers, dangerous persons, drug offenders, immoral traffic offenders and property grabbers for preventing their anti-social and dangerous activities prejudicial to the maintenance of public order.

Whereas the public order is adversely affected every now and then by certain anti-social and dangerous activities of persons who are known as boot-leggers, dangerous persons, drug offenders, immoral traffic offenders and property grabbers :

And whereas having regard to the resources and influence of the persons by whom, large scale on which, and the manner in which, the anti-social and dangerous activities are being clandestinely organised and carried on in violation of law by such boot-leggers, dangerous persons, drug offenders, immoral traffic offenders and property grabbers ;

And whereas Legislative Assembly of the State of Gujarat is not in session ;

And whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to have a special law in the State of Gujarat to provide for preventive detention of those classes of persons and for matters connected therewith for the purpose hereinafter appearing ;

And whereas instructions of the President under the proviso to Clause (1) of Article 213 of the Constitution have been obtained ;

Now, therefore, in exercise of the powers conferred on him by Clause (1) of Article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Gujarat Prevention of Anti-Social Activities Ordinance, 1985.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. *Definition.*—In this Ordinance, unless the context otherwise requires.

(a) “authorised officer” means a District Magistrate or a Commissioner of Police authorised under sub-section (2) of section 3 to exercise the powers conferred under sub-section (1) of that section ;

(b) “bootlegger” means a person, who distils, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any provisions of the Bombay Prohibition Act, 1949 (*Bom. XXV of 1949*), and the rules and orders made thereunder, or of any other law for the time being in force or who knowingly expends or applies any money or supplies any animal, vehicles vessels or other conveyance or any receptacles or any other materials whatsoever in furtherance or support of the doing of any of the things described above by or through any other person, or who abets in any other manner the doing of any such thing ;

(c) “dangerous person” means a person, who either by himself or as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences, punishable under Chapter XVI or Chapter XVII or Chapter XXII of the Indian Penal Code or any of the offences punishable under Chapter V of the Arms Act, 1959 (54 of 1959) ;

(d) “detention order” means an order made under section 3 ;

(e) “detenu” means a person detained under a detention order ;

(f) “drug-offender” means a person, who manufactures, stocks, imports, exports, sells or distributes any drug or cultivates any plants or does any other thing in contravention of any provisions of the Drugs and Cosmetics Act, 1944 (*XIII of 1940.*), or the Dangerous Drugs Act, 1930 (*II*

of 1930), or the rules and orders made under either Act or in contravention of any other law for the time being in force, or who knowingly expends or applies any money in furtherance or support of the doing of any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such thing

(g) "immoral traffic offender" means a person who habitually commits or abets the commission of any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (104 of 1956);

(h) "property grabber" means a person who illegally takes possession of any lands (whether belonging to Government, local authority or any other person) or enters into or creates illegal tenancies or leave and licence agreements or any other agreements in respect of such lands, or who constructs unauthorised structure thereon for sale or hire, or gives such lands to any person on rental or leave and licence basis for construction, or use and occupation, of unauthorised structures, or who knowingly gives financial aid to any persons for taking illegal possession of such lands, or for construction of unauthorised structures thereon, or who collects or attempts to collect from any occupiers of such lands rent, compensation or other charges by criminal intimidation, or who evicts or attempts to evict any such occupiers by force without resorting to the lawful procedure, or who abets in any manner the doing of any of the above mentioned things;

(i) "unauthorised structure" means any structure constructed in any area without express permission in writing of the officer or authority having jurisdiction in such area required under the Bombay Land Revenue Code, 1879 and the Gujarat Town Planning and Urban Development Act, 1976 and the Bombay Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 or, the case may be the Gujarat Panchayats Act, 1961 or except in accordance with any other law for the time being in force in such area.

3 *Power to make order detaining certain persons.*—(1) The State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary, so to do, make an order directing that such person be detained.

(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct that the District Magistrate or Commissioner of Police, may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section.

(3) When any order is made under this section by an authorised officer he shall forthwith report the fact to the State Government, together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless in the meantime, it has been approved by the State Government.

(4) For the purpose of this section a person shall be deemed to be "acting in any manner prejudicial to the maintenance of public order" when such person is engaged in or is making preparation for engaging in any

activities, whether as a bootlegger or dangerous person or drug offender or property grabber, which effect adversely or are likely to affect adversely the maintenance of public order.

Explanation : For the purpose of this sub-section, public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely *inter alia* if any of the activities of any person referred to in this sub-section directly or indirectly, is causing or is likely to cause any harm, danger or alarm or feeling of insecurity among the general public or any section thereof or a grave or widespread danger to life, property or public health.

4. *Execution of detention orders.*—A detention order may be executed at any place in the State in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (II of 1974).

5. *Powers to regulate place and conditions of detention.*—Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the State Government may, by general or special order, specify ; and

(b) to be removed from one place of detention to another place of detention, within the State by order of the State Government.

6. *Grounds of detention, severable*—Where a person has been detained in pursuance of an order of detention under section 3 which has been made on two or more grounds such order of detention shall be deemed to have been made separately on each of grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) not-existent,

(iii) not-relevant,

(iv) not connected or not proximately connected with such person,

or

(v) invalid for any other reason whatsoever,

and it is not, therefore, possible to hold that the Government or Officer making such order would have been satisfied as provided in section 3 with reference to the remaining ground or grounds and made the order of detention ;

(b) the Government or Officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.

7. *Detention order not to be invalid or inoperative on certain grounds.*—No detention order shall be invalid or inoperative merely by reason—

(a) that the person to be detained thereunder, though, within the State, is outside the limits of the territorial jurisdiction of the authorised officer making the order, or

(b) that the place of detention of such person though, within the State, is outside the said limits.

8. *Powers in relation to absconding persons.*—(1) If the State Govern-

ment or any authorised officer has reason to believe that a person in respect of whom a detention order has been made has absconded, or is concealing himself so that the order cannot be executed, then the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 (II of 1974), shall apply in respect of such person and his property, subject to the modifications mentioned in this sub-section and, irrespective of the place where such person ordinarily resides, the detention order made against him shall be deemed to be a warrant issued by a competent Court. Where the detention order is made by the State Government, an Officer, not below the rank of District Magistrate or Commissioner of Police authorised by the State Government in this behalf, or where the detention order is made by the authorised officer, as the case may be, shall, irrespective of his ordinary jurisdiction, be deemed to be empowered to exercise all the powers of the competent Court under sections 82, 83, 84 and 85 of the said Code for issuing a proclamation for such person and for attachment and sale of his property situated in any part of the State and for taking any other action under the said sections. An appeal from any order made by any such officer rejecting an application for restoration of attached property shall lie to the Court of Sessions having jurisdiction in the place where the said person ordinarily resides, as provided in section 86 of the said Code.

(2) (a) Notwithstanding anything contained in sub-section (1), if the State Government or an authorised officer has reason to believe that a person in respect of whom a detention has been made has absconded or is concealing himself so that the order cannot be executed, the State Government or the officer, as the case may be, may, by order notified in the official Gazette, direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(b) Where such person fails to comply with such order, then unless, he proves that it was not possible for him to comply therewith, and that he had, within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance therewith impossible and of his whereabouts, or proves that it was not possible for him to so inform the officer mentioned in the order, he shall, on conviction, be punished with imprisonment for a term may extend to one year, or with fine, or with both.

(c) Notwithstanding anything contained in the said Code, every offence under clause (b) shall be cognizable.

9. *Grounds of order of detention to be disclosed to detenu.*—(1) When a person is detained in pursuance of a detention order the authority making the order shall, as soon as may be, but not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

10. *Constitution of Advisory Boards.*—(1) The Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Ordinance.

(2) Every such Board shall consist of a Chairman and two other members, who are, or have been, Judges of any High Court or who are qualified under the Constitution of India to be appointed as Judges of a High Court :

Provided that the Chairman of such Board shall be a person who is, or has been, a Judge of a High Court.

11. *Reference to Advisory Board.*—In every case where a detention order has been made under this Ordinance, the State Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 10 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and where the order has been made by an authorised officer, also the report made by such officer under sub-section (3) of section 3.

12. *Procedure of Advisory Board.*—(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government from the detenu and if, in any particular case, the Advisory Board considers it essential so to do or if the detenu desires to be heard, after hearing the detenu in person, submit its report to the State Government, within seven weeks from the date of detention of the detenu.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the detenu.

(3) When there is a difference of opinion among the members forming the Advisory Board the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) The proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified shall be confidential.

(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.

13. *Action upon report of Advisory Board.*—(1) In any case where the Advisory Board has reported that there is, in its opinion sufficient cause for the detention of the detenu, the State Government may confirm the detention order and continue the detention of the detenu for a period, not exceeding maximum period prescribed by section 14 as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the State Government shall revoke the detention order and cause the detenu to be released forthwith.

14. *Maximum period of detention.*—The maximum period for which any person may be detained, in pursuance of any detention order made under this Ordinance which has been confirmed under section 13, shall be one year from the date of detention.

15. *Revocation of detention orders.*—(1) Without prejudice to the provisions of section 21 of the Bombay General Clauses Act, 1904 (Bombay I of 1904) a detention order may, at any time, for reasons to be recorded

in writing, be revoked or modified by the State Government, notwithstanding that the order has been made by an authorised officer.

(2) The expiry or revocation of a detention order (hereinafter in this sub-section referred to as the earlier detention order) shall not bar the making of another detention order (hereinafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person :

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order.

16. *Temporary release of persons detained.*—(1) The State Government may, at any time, for reasons to be recorded in writing, direct that any person detained in pursuance of a detention order may be released for any specified period, either without conditions or upon such conditions specified in the directions as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any detenu under sub-section (1), the State Government may require him to enter into a bond, without sureties, for the due observance of the conditions specified in the direction.

(3) Any detenu released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any detenu fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any detenu released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

17. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or person, for anything in good faith done or intended to be done in pursuance of this Ordinance

18. *Matters within the purview of this Ordinance to be dealt with under this Ordinance, only.*—On and after the commencement of this Ordinance, no order of detention under the National Security Act, 1980 (65 of 1980), shall be made by the State Government or any officer subordinate to it, in respect of any boot-legger, drug offender, dangerous person, immoral traffic offender, or property grabber in the State on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, in so far as an order under this Ordinance could be made for detention of such person.

STATEMENT

It is noticed by the State Government that activities of certain anti-social persons who in common parlance are known in the society as boot-leggers, drug offenders, goondas (dangerous persons) immoral traffic offenders and property grabbers cause feeling of insecurity among the general public, as also grave and widespread danger to the life

and property of the public and thereby affect the maintenance of public order in the State. With a view to maintaining the public order in the State, it is considered necessary to enact a special legislation for the detention of such anti-social persons.

2. As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar,

Dated the 26th May, 1985.

B. K. NEHRU,

Governor of Gujarat,

**THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS
(GUJARAT AMENDMENT) ORDINANCE, 1985**

Published in the *Gujarat Government Gazette, (Ext.)*, dated
June 11, 1985

GUJARAT ORDINANCE NO. 12 OF 1985

An Ordinance further to amend the Bombay Provincial Municipal Corporations Act, 1949.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) ;

Now, therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the *Bombay Provincial Municipal Corporations (Gujarat Amendment) Ordinance, 1985.*

(2) It shall come into force at once,

2. *Bom. LIX of 1949 to be temporarily amended.*—During the period of operation of this Ordinance, the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), (hereinafter referred to as “the principal Act”) shall have effect subject to the amendments specified in sections 3 and 4

3. *Amendment of section 129 of Bom. LIX of 1949.*—In the principal Act, in section 129.

(1) to clause (a), the following proviso shall be added, namely :—

“Provided that the minimum amount of such tax to be levied in respect of any one separate holding of land or of any one building or of any one portion of a building which is let as a separate holding shall be five rupees per mensem ;” ;

(2) in clause (b), for the words “eight annas”, the words “five rupees” shall be substituted.

4. *Insertion of new section 141A to Bom. LIX of 1949*—In the principal Act, under the heading “Liability for Property Taxes”, after section 141, the following section shall be inserted, namely :—

"141-A. *Levy of interest on the sum due on account of property tax.*—If any person liable to pay property tax under this Chapter does not pay the property tax within the time prescribed for its payment under the rules made, therefor, there shall be paid by such person for the period commencing on the date of the expiry of the aforesaid prescribed time and ending on the date of the payment of the amount of property tax, simple interest at the rate of 24 per cent per annum on the amount of property tax not so paid or any less amount thereto remaining unpaid during such period".

STATEMENT

In order to enable the Municipal Corporations to implement World Bank aided urban development projects it is considered necessary to improve their financial resources. In relation to water tax leviable under clause (a) of section 129 of the Bombay Provincial Municipal Corporations Act, 1949, there is no minimum prescribed therefore. Whereas the minimum rate prescribed in relation to conservancy tax under clause (b) of the said section 129 is only eight annas per mensem. It is, therefore, proposed to specify five rupees per mensem as the minimum amount of water tax to be levied and to raise the minimum amount of conservancy tax from eight annas per mensem to five rupees per mensem.

In order that the assesses may pay property taxes within the prescribed time it is considered necessary to impose a simple interest at the rate of 24 per cent per annum on the amount of arrears of property taxes due from them.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,

Dated the 13th June, 1985

B. K. NEHRU,
Governor of Gujarat.

THE GUJARAT TOWN PLANNING AND URBAN DEVELOPMENT (AMENDMENT) ORDINANCE, 1985

Published in the *Gujarat Govt. Gazette, (Ext.)*, dated June 12, 1985.

GUJARAT ORDINANCE NO. 13 OF 1985

An Ordinance further to amend the Gujarat Town Planning and Urban Development Act, 1976.

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And Whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Town Planning and Urban Development Act, 1976 (Presi. Act No. 27 of 1976) ;

Now therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely —

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Town Planning and Urban Development (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *President's Act No. 27 of 1976 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Town Planning and Urban Development Act, 1976 (Presi. Act No. 27 of 1976) (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 7.

3. *Amendment of section 40 of President's Act No. 27 of 1976.*—In the principal Act, in section 40,—

(a) in sub-section (2), for clause (ii), the following clause shall be substituted, namely :—

"(ii) likely to be used for commercial or industrial or for building purposes ; or";

(b) in sub-section (3), after clause (j), the following new clause shall be inserted, namely :—

"(jj) the reservation of land to the extent of ten per cent, or such percentage as near thereto as possible of the total area covered under the scheme, for the purpose of sale for residential, commercial or industrial use."

4. *Amendment of section 77 of President's Act No. 27 of 1976.*—In the principal Act, in section 77, in sub-section (1),—

(a) to clause (b), the following proviso shall be added, namely :—

"Provided that the estimate shall be with reference to the period during which the preliminary scheme is to be implemented after it is sanctioned under section 65";

(b) after clause (f), the following new clause shall be inserted, namely :—

"(g) twenty percent of the aggregate of the amounts referred to in clauses (a) to (f) towards the cost of such infrastructure provided in the area adjacent to the area of the scheme as is necessary for the purpose of an incidental to the scheme".

5. *Substitution of section 78 of President's Act No. 27 of 1976.*—In the principal Act, for section 78, the following section shall be substituted, namely :—

"78. *Calculation of Increment.*—For the purpose of this Act, the increments shall be deemed to be the amount by which such market value of the plot included in the final scheme as would be estimated on the date on which the final scheme is likely to be sanctioned under section 65 on the assumption that the scheme has been completed on the date and with reference to improvements contemplated in the scheme would exceed on the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme :

Provided that in estimating such value, the value of buildings or other works erected or in the course of erection on such plots shall not be taken into consideration.

6. *Amendment of section 87 of President's Act No. 27 of 1976.*—In the principal Act in section 87, for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) If the owner elects to pay the amount by instalments, interest at such rate as arrived at by adding two percent to the bank rate published under section 49 of the Reserve Bank of India Act, 1934 (II of 1934), from time to time, shall be charged per annum on the net amount payable".

7. *Delection of section 121 of President's Act No. 27 of 1976.*—In the principal Act, section 121 shall be deleted.

STATEMENT

In the light of the experience gained in the admission of the Gujarat Town Planning and Urban Development Act, 1976, the following amendments have become necessary :—

(1) A doubt has arisen as to whether a town planning scheme could be made in respect of land which is likely to be used for commercial or industrial purposes. In order to remove such doubt suitable amendment is necessary in sub-section (2) of section 40 of the said Act.

(2) In order to meet with part of the cost of a town planning scheme it is necessary to reserve land to the extent of 10 percent of the total area covered under the scheme for the purpose of sale for residential, commercial or industrial use. It has, therefore, become necessary to amend sub-section (3) of section 40.

(3) The existing clause (b) of sub-section (1) of section 77 of the said Act refers to sums estimated to be spent by the appropriate authority in the making and execution of the scheme. It is not clear as to the period with reference to which sums are to be so estimated. Hence it is considered necessary to make a provision that the estimates shall be with reference to the period during which the preliminary scheme is to be implemented after it is sanctioned under section 65 of the Act.

(4) In order to meet with part of the cost of town planning scheme referred to in sub-section (1) of section 77 of the Act, it is considered necessary to include therein 20 per cent of the aggregate of the amounts referred to in clauses (a) to (f) of the said sub-section (1) towards the cost of infrastructure provided in the area adjacent to the area of scheme as is necessary for the purpose and incidental to the scheme.

(5) Under the existing section 78 the increments are calculated with reference to the date of declaration of intention to make a scheme. Since final scheme is sanctioned after a lapse of considerable period after such declaration, the calculation of increment on the basis of the date of declaration of intention does not reflect the real value of the increment and hence it has become necessary to provide for calculation of increment with reference to the date on which the final scheme is sanctioned under section 65 of the Act.

(6) It is necessary to make provision in section 87 for charging of interest in cases where an owner elects to pay the amount due to the appropriate authority by instalments under that section.

(7) It is considered necessary to delete section 121 so as to provide for the continuation of the benefit of the Bombay Tenancy and Agricultural Lands Act, 1948 and the Bombay Tenancy (Vidharbha Region and Kutch Area) Act, 1958, to the tenants of an area although such area may be included in the town planning scheme.

2. As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,
Dated the 11th June, 1985.

B. K. NEHRU,
Governor of Gujarat.

THE GUJARAT HOUSING BOARD (AMENDMENT) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 6th July, 1985 was published in the *Gujarat Government Gazette*, (Ext), Part IV dated July 9, 1985.

GUJARAT ACT NO. 8 OF 1985.

An Act further to amend the Gujarat Housing Board Act, 1961.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Gujarat Housing Board (Amendment) Act, 1985.**

(2) It shall be deemed to have come into force on the 1st December, 1982.

2. *Amendment of section 7 of Gujarat XXVIII of 1961.*—In the Gujarat Housing Board Act, 1961, in section 7, after sub-section (1), the following sub-section shall be inserted, namely :—

“(1-A) For the purpose of clause (a) of sub-section (1), a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner.”.

3. *Repeal.*—The Gujarat Housing Board (Amendment) (Second) Ordinance, 1985 (Gujarat Ord. 8 of 1985), is hereby repealed.

THE GUJARAT RURAL HOUSING BOARD (AMENDMENT) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 6th July, 1985 was published in the *Gujarat Government Gazette*, (Ext.), Part IV, dated July 9, 1985.

GUJARAT ACT NO. 9 OF 1985

An Act further to amend the Gujarat Rural Housing Board Act, 1972.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Gujarat Rural Housing Board (Amendment) Act, 1985.**

(2) It shall be deemed to have come into force on the 11th January, 1985.

2. *Amendment of section 5 of Gujarat 22 of 1972.*—In the Gujarat Rural Housing Board Act, 1972 (hereinafter referred to as “the principal Act”), in section 5, in sub-section (1), in the proviso, for the portion beginning with words “backward classes” and ending with the words “construction of buildings”, the following shall be substituted, namely :—

“backward classes, two members shall be persons who possess technical knowledge and experience in the matter of construction of buildings one member shall be an officer of the Government and one member shall be the Rural Housing Commissioner.”.

3. *Amendment of section 7 of Gujarat 22 of 1972.*—In the principal Act, in section 7,—

(1) in sub-section (1), in clause (a), the words “or the State Government” shall be deleted ;

(2) after sub-section (1) the following sub-section shall be inserted, namely :—

“(1A) For the purpose of clause (a) of sub-section (1), a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner.”.

4. *Repeal and savings.*—(1) The Gujarat Rural Housing Board (Amendment) (Second) Ordinance, 1985 (Gujarat Ord. 9 of 1985), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE GUJARAT APPROPRIATION ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 26th July, 1985 was published in the *Gujarat Government Gazette (Ext.)*, Part IV, dated July 27, 1985.

GUJARAT ACT NO. 12 OF 1985

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the year ending on the Thirty-first day of March, 1986.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Gujarat Appropriation Act, 1985.

2. *Withdrawal of Rs. 19,20,87,08,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1985-86.*—From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand nine hundred twenty crores, eighty seven lakhs and eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1985-86, in respect of the service and purposes specified in column 2 of the Schedule.

3. *Appropriation.*—The sum authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE GUJARAT SCHEDULED CASTES DEVELOPMENT CORPORATION ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 10th July, 1985 was published in the *Gujarat Government Gazette (Ext.)*, Part IV dated July 12, 1985.

GUJARAT ACT NO. 10 OF 1985

An Act to provide for the establishment of a Corporation for the advancement of Schedule Castes in the State of Gujarat and for matters connected therewith.

It is hereby enacted in the Thirty-sixth year of the Republic of India as follows ;—

CHAPTER I Preliminary.

1. *Short title extent and commencement.*—This Act may be called the Gujarat Schedule Castes Development Corporation Act, 1985.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “agriculture” includes dairy farming, poultry farming, breeding of livestock, pisciculture, sericulture and forestry; and the term “agricultural” shall be construed accordingly;

(b) “Chairman” means the Chairman of the Corporation;

(c) “Corporation” means the Gujarat Scheduled Castes Development Corporation established under section 3;

(d) “director” means a director of the Corporation and includes the Chairman;

(e) “managing director” means a director appointed as managing director under sub-section (3) of section 5;

(f) “marketing” means all activities relating to the transport, grading pooling marketing and sale of agricultural or industrial produce, whether in the primary form or in semi-processed or processed form;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “processing” means all activities relating to the processing of agricultural produce or industrial produce so as to make it marketable or fit for consumption and it includes purchase and storage of raw material, purchase of equipment, and purchase, installation and running of machinery required for processing and storage of finished produce;

(i) “regulation” means a regulation made under section 27;

(j) “Scheduled Castes” means such castes or communities or parts of or groups within, such castes or communities as are deemed to be Scheduled Castes in relation to the State of Gujarat under article 341 of the Constitution of India;

(k) “society” means a society registered under the Societies Registration Act, 1860, or a co-operative society registered under the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1960).

(l) “Scheduled Castes Organisation” means a firm registered under the Indian Partnership Act, 1932 (IX of 1932), or a society wherein all or a majority of the partners or, as the case may be, all or a majority of members whereof belong to Scheduled Castes.

Explanation.—Where a society (hereinafter referred to as “the principal society”) has as its member another society (hereinafter referred to as the “member society”) all or a majority of members of which belong to Scheduled Castes, such member society shall be deemed to be a member of the principal society belonging to Scheduled Castes;

(m) “small-scale industry” means cottage industry or an industry in which capital investment does not exceed such amount as may be prescribed;

(n) “supply and storage” means supply and storage of agricultural or industrial inputs and establishment, maintenance and running of storages, cold storages and warehouses.

CHAPTER II

Establishment and Constitution of the Corporation.

3. *Establishment and Incorporation of Corporation.*—(1) For the purpose

of securing the uplift of Scheduled Castes in the State of Gujarat, the State Government may, by notification in the *Official Gazette*, establish a Corporation by the name of the Gujarat Scheduled Castes Development Corporation with effect from such date as may be specified in the notification.

(2) The Corporation shall be a body corporate, with perpetual succession and common seal and may sue and be sued in its corporate name and shall be competent to acquire, hold and dispose of property, both moveable and immoveable, and to contract and do all things necessary for the purposes of this Act.

4. *Headquarters of Corporation.*—The headquarters of the Corporation shall be at Gandhinagar or at such other place as the State Government may, by notification in the *Official Gazette* specify.

5. *Constitution of Corporation.*—(1) The Corporation shall consist of not more than fifteen directors who shall be nominated by the State Government:

Provided that not less than three directors shall be official and the remaining directors shall be non-officials who shall be nominated from amongst persons who, in the opinion of the State Government, have special knowledge or practical experience in matters relating to agriculture, agro-industries, water development projects, finance, co-operation and socio-economic problems of Scheduled Castes:

Provided further that not less than six non-official directors shall belong to the Scheduled Castes.

(2) The State Government shall appoint one of the directors as Chairman.

(3) The State Government shall appoint one of the official directors to be the managing director of the Corporation.

6. *Term of office and conditions of appointment of Director.*—(1) A director other than the managing director, shall hold office for a term of two years from the date of his nomination:

Provided that an outgoing director shall, notwithstanding the expiration of his term, continue to hold office until the nomination of his successor

(2) An outgoing director shall be eligible for being renominated on the Corporation.

(3) Subject to the provision of this Act, the terms and conditions of the appointments of the directors other than the managing director and the fees and allowances payable to them shall be such as may be prescribed.

7. *Filling up casual vacancies.*—On the occurrence of any vacancy in the office of a director due to death, resignation or any other reason, the same shall be filled up by the State Government in the manner provided in section 5 and a person nominated as director to fill such vacancy shall hold office for the unexpired portion of the term of his predecessor.

8. *Disqualification for office of director.*—A person shall be disqualified for being nominated as, and for being a director, if he—

(a) is, or at any time has been adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is, or has been, convicted of any offence which, in the opinion of the State Government, involves moral turpitude or convicted under the Protection of Civil Rights Act, 1955 (XXII of 1955), or

(d) is, or has been, removed or dismissed from the service of any State Government or the Central Government or a Corporation owned or controlled by any State Government or the Central Government.

9. *Director not to participate in certain cases*—A director who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Corporation shall as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Corporation and the director shall not take any part in any deliberation or decision of the Corporation with respect to that matter.

10. *Removal and resignation of director*.—(1) Notwithstanding anything contained in section 6, the State Government may, at any time, remove any director from office, if, in its opinion, such a director—

(a) is, or has become, subject to any disqualification mentioned in section 8 ;

(b) is absent without leave of the Corporation from more than three consecutive meetings thereof without cause sufficient, in the opinion of the Corporation, to exonerate his absence ;

(c) has acted in contravention of the provisions of section 9 ; or

(d) has been guilty of misconduct in the discharge of his duties :

Provided that no order of removal shall be passed without giving the director a reasonable opportunity of showing cause against the proposed order.

(2) A director may resign his office by giving notice thereof in writing to the State Government and on such resignation being accepted he shall be deemed to have vacated his office.

11. *Managing Director*.—(1) The managing director shall be a whole time officer of the Corporation and shall—

(a) be the Chief Executive Officer of the Corporation,

(b) be responsible for the operational management of the Corporation and implementation of the general policy approved by the Corporation,

(c) perform such duties as the Corporation may, by regulations or otherwise, assign to him,

(d) receive such salary and allowances and be governed by such terms and conditions of service as may be approved by the State Government in consultation with the Corporation.

(2) If the managing director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the State Government may appoint another person to take in his place during his absence.

12. *Officers and other employees of Corporation* —(1) The Corporation may appoint such officer and other employees as it considers necessary for the efficient performance of its functions and determine, by regulation or otherwise, their conditions of appointment and service and the remunera-

tion payable to them.

(2) The Corporation may, by general or special order, delegate to the managing director or to any other officer or employee of the Corporation, subject to such conditions and limitations, if any, as may be specified such of its powers and duties under this Act, except the power to make regulations as it may deem necessary.

13. *Meeting of Corporation.*—(1) The Corporation shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason he is unable to attend any meeting any other director elected by the directors present at the meeting, shall preside at the meeting of the Corporation.

(3) All the questions which come up before any meeting of the Corporation shall be decided by a majority of the votes of directors present and voting, and in the event of an equality of votes, the Chairman or, in his absence, the person presiding, shall have and exercise a second or casting vote.

14. (1) *Acts and proceedings presumed to be valid notwithstanding any defect.*—No act or proceeding of the Corporation shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in, the constitution of the Corporation.

(2) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be director or that there was any other defect in his nomination.

15. *No disqualification in certain cases.*—No person shall be disqualified for being, chosen as, or for being, a member of the Legislative Assembly of the State by reason only of the fact that he is a Chairman or a director.

CHAPTER III

Functions and Powers of the Corporation

16. *Functions and Powers of Corporation.*—(1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to undertake the task of social and economical uplift of the Scheduled Castes in the State of Gujarat, and the Corporation shall be competent to do all things and to exercise all the powers necessary for the performance of such duties.

(2) Without prejudice to the generality of the forgoing provision, such power of the Corporation shall include the power—

(i) to plan and promote, on its own or in collaboration with or through such Scheduled Castes or other agencies as may be approved by the Corporation, any programme of agricultural development, marketing, processing, supply and storage of agricultural produce, small-scale industry, building construction, transport and such other activities as may be approved in this behalf by the State Government ;

(ii) to undertake, on its own or in collaboration whether through such Scheduled Castes Organisations or other agencies as may be approved by the Corporation, any activity in relation to any of the matters specified in clause (i), for furthering the objects of the Corporation ;

(iii) to give on hire agricultural or industrial machinery or equipments to the members of the Scheduled Castes Organisations ;

(iv) to give grants and subsidies to and to guarantee loans taken by

the members of Scheduled Castes Organisations ;

(v) to encourage employment opportunities for the member of the Scheduled Castes ;

(vi) to undertake any other activity which the State Government may entrust to the Corporation ;

(vii) to grant loans or obtain covered loans to members of the Scheduled Castes ;

(viii) to borrow money subject to such conditions as the State Government may specify ;

(ix) to issue bonds and debentures ;

(x) to draw, make, accept endorse, discount, execute and issue promissory notes, bills of exchange, hundis, bills, warrants, debentures and other negotiable instruments ;

(xi) to invest or deposit surplus funds of the Corporation in Government securities or in such other manner as the State Government may, by general or special order, direct ; and

(xii) to discharge such other functions as may be specified or as are supplemental, incidental or consequential to any of the functions conferred on it by or under this Act.

CHAPTER IV

Finance, Accounts and Audit

17. *State Government to provide Initial Capital.*—(1) The State Government may provide to the Corporation such sum not exceeding ten crores of rupees as the State Government may think fit as capital that may be required by the Corporation for the purpose of carrying out its functions :

Provided that where the capital initially provided is less than ten crores of rupees the State Government may, from time to time, increase the capital to sum not exceeding ten crores of rupees.

(2) Such capital may be provided subject to such terms and conditions as may be determined by the State Government.

(3) The capital so provided shall form part of the fund of the Corporation.

18. *Fund of Corporation.*—(1) The Corporation shall have its own fund.

(2) The Corporation may accept grants, subventions, donations and gifts from the Central or the State Government or a local authority or any individual or body of individuals whether incorporated or not, for all or any of the purposes of this Act.

(3) All sums which may from time to time be paid to it by the State Government and all other receipts of the Corporation shall be carried to the fund of the Corporation and all payments by the Corporation shall be therefrom.

(4) The Corporation may spend such sums as it thinks fit for the performance of its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Corporation.

(5) All moneys belonging to the fund of the Corporation shall be deposited in such bank or invested in Government Securities or in such other manner as the State Government may, by general or special order, direct.

19. *Accounts.*—(1) The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Corporation shall cause books of accounts of the Corporation to be balanced and closed on the thirty first day of March every year.

20. *Audit*—(1) The accounts of the Corporation shall be audited once in every financial year, by auditors, duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Corporation and shall receive such remuneration from the Corporation as the Corporation may fix.

(2) The auditors shall be supplied with a copy of the annual balance sheet and the income and expenditure account of the Corporation and it shall be the duty of the auditors to examine them together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may require from any director or officer of the Corporation such information as they may think necessary for the performance of their duties as auditors.

(3) The auditors shall make a report to the Corporation upon the annual balance-sheet and accounts examined by them and in every such report shall state whether in their opinion, the balance sheet is a full and fair balance-sheet containing necessary particulars and properly drawn up so as to exhibit a true and fair view of the State of affairs of the Corporation.

(4) The Corporation shall furnish to the State Government a copy of its balance-sheet and accounts together with a copy of the report made by auditors under sub-section (3) and a report on the working of the Corporation during the relevant period, within four months from the date on which its accounts are closed and balanced.

(5) Copies of the reports referred to in sub-section (4) shall be laid by the State Government, as soon as may be, before the State Legislature.

CHAPTER V

Miscellaneous

21. *Advisory Committee.*—(1) The State Government may from time to time constitute an Advisory Committee consisting of such number of persons as it may think fit and on such terms and conditions as may be prescribed.

(2) The Corporation may, if it thinks fit, consult the Advisory Committee on any business coming before it and shall do so in respect of such business as the State Government may, by general or special order in this behalf, specify or when required by the regulations so to do.

(3) The Advisory Committee shall meet at such intervals as may be prescribed and for the transaction of urgent business on such other occasions as the Chairman of the Corporation may require.

(4) The number of members necessary to constitute a quorum at a meeting of the Advisory Committee shall be such as the State Government may when constituting the Committee specify.

22. *Recovery of money due to Corporation.*—(1) Where any amount is due to the Corporation from any person in respect of advance or other financial accommodation granted by it, such amount shall, on a certificate

being granted by the managing director in the prescribed form, be recoverable as arrears of land revenue by the Collector of the district in which the person from whom the amount is due resides or carries on business or owns any property.

(2) Before issuing the certificate referred to in sub-section (1), the managing director shall make an application to such officer, as may be empowered by the State Government in this behalf and that officer shall, after giving an opportunity of being heard to the person concerned and after such further enquiry as he may consider necessary, for an order determine the amount due to the Corporation and communicate the same to the managing director.

(3) An appeal against an order passed by the officer empowered under sub-section (2) shall lie within such period and to such authority as may be prescribed.

(4) The officer empowered under sub-section (2) and the appellate authority shall follow such procedure as may be prescribed.

(5) The certificate issued by managing director under sub-section (1) shall be final and conclusive and shall not be called in question before any authority or court.

(6) For the purpose of recovering any amount due to the Corporation in respect of a loan it shall not be necessary to proceed against the principal before proceeding against his surety.

23. Dissolution.—(1) No provision of law, other than this Act, relating to the winding up, dissolution or liquidation of the companies or corporations shall apply to the Corporation.

(2) The State Government may, if the Corporation fails to carry out its functions or exceeds its powers, or upon a receipt of a report under section 20, call upon the Corporation to show cause why it should not be dissolved and if no explanation is offered within the specified period or if the State Government is not satisfied with the explanation, the State Government may dissolve the Corporation from such date as may be specified.

24. Consequence of dissolution of Corporation.—(1) When the Corporation is dissolved under section 23,—

(i) all directors shall, from the date of dissolution, vacate their offices,

(ii) all powers and duties of the Corporation shall, during the period of dissolution, be exercised and performed by such persons as the State Government may appoint in this behalf.

(iii) all funds and other property vested in the Corporation shall, during the period of dissolution, vest in the State Government,

(2) The State Government may reconstitute the Corporation after such period as it may think fit.

25. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Corporation or any director including the managing director, or any officer or other employee or any other person authorised by the Corporation to discharge any functions under this Act, for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done by him in pursuance of this Act.

26. *Indemnity to directors.*—(1) Every director shall be indemnified against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for the acts of any other director or for the acts of any officer or other employee of the Corporation or for any loss or expenses resulting to the Corporation by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation in good faith, or by the insolvency or wrongful act of any debtor or any person under obligation to the Corporation, or anything done in good faith, in the execution of the duties of his office or in relation thereto.

27. *Power of Corporation to make regulations.*—(1) The Corporation may make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provisions is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations, may provide for all or any of the following matters, namely :—

(a) the time and places of meetings of the Corporation and the procedure to be followed in relation to such meetings including the quorum necessary for the transaction of business ;

(b) duties which the managing director shall perform

(c) the duties, conduct, salaries, allowances and conditions of service of officers and other employees of the Corporation ;

(d) the delegation of powers and functions to the officers and other employees of the Corporation ;

(e) the establishment and maintenance of provident and other benefit funds for the officers and employees of the Corporation ;

(f) any other matter which is, or may be, necessary for the efficient conduct of the affairs of the Corporation.

28. *Power of State Government to make rules*—(1) The State Government may, by notification published in the *Official Gazette*, make rules to carry out all or any of the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the terms and conditions of service of the directors and the fees and allowances payable to them ;

(b) functions, in addition to those specified in sub-section (2) of section 16, to be discharged by the Corporation and the conditions and restrictions subject to which those functions shall be discharged ;

(c) the form and manner in which accounts shall be maintained and the balance-sheet and income and expenditure accounts shall be prepared ;

(d) the form in which certificate shall be issued by the managing director, the period within which and the authority before whom an appeal shall be filed, and the procedure to be followed by the appellate authority under section 22 ;

(e) any other matter which is required to be, or may be, prescribed.

(3) All rules made under this section shall be laid for not-

less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon, take effect.

THE GUJARAT BACKWARD CLASSES DEVELOPMENT CORPORATION ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 20th July, 1985 was published in the *Gujarat Govt. Gazette*, (Ext.), part IV dated July 24, 1985.

GUJARAT ACT NO. 11 OF 1985

An Act to provide for the establishment of a Corporation for the advancement of the socially and educationally backward class citizens in the State of Gujarat and for matters connected therewith.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the **Gujarat Backward Classes Development Corporation Act, 1985**.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “agriculture” includes dairy farming, poultry farming, breeding of livestock, pisciculture, sericulture and forestry ; and the term “agricultural” shall be construed accordingly ;

(b) “socially and educationally backward class citizen” means a citizen belonging to any socially and educationally backward class specified in the Schedule ;

(c) “backward class organisation”, means a firm registered under the Indian Partnership Act, 1932 (IX of 1932), or a society, wherein all or a majority of partners or, as the case may be, all or a majority of members of such society, are socially and educationally backward class citizens.

Explanation.—Where a society (hereinafter referred to as “the principal society”) has as its member another society (hereinafter referred to as “the member society”) and all or a majority of members of such society are socially and educationally backward class citizens such member society shall be deemed to be a member of the principal society belonging to socially and educationally backward class citizens ;

(d) “Chairman” means the Chairman of the Corporation ;

(e) “citizen” means citizen of India ;

(f) “Corporation” means the Gujarat Backward Classes Development Corporation established under section 4 ;

(g) “director” means a director of the Corporation and includes the Chairman ;

(h) "Managing director" means a director appointed as managing director under sub-section (3) of section 6 ;

(i) "marketing" means all activities relating to the transport, grading, pooling, marketing and sale of agricultural or industrial produce, whether in the primary form or in semi-processed or processed form ;

(j) "prescribed" means prescribed by rules made under this Act.

(k) "processing" means all activities relating to the processing of agricultural produce or industrial product so as to make it marketable or fit for consumption and it includes purchase and storage of raw material, purchase of equipment, and purchase, installation and running of machinery required for processing and storage of finished produce ;

(l) "regulation" means a regulation made under section 28 ;

(m) "small scale industry" means a cottage industry or an industry in which capital investment does not exceed such amount as may be prescribed ;

(n) "society" means a society registered under the Societies Registration Act, 1860 (XXI of 1860), or a co-operative society registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961 (Guj X of 1962).

(o) "supply and storage" means supply and storage of agricultural inputs and establishment, maintenance and running of storages, cold storages and warehouses

CHAPTER II

Establishment and Constitution of the Corporation.

3. *Power of State Government to add to Schedule.*—(1) The State Government may, by notification in the Official Gazette, add to the Schedule any class which in its opinion is a socially and educationally backward class and thereupon the class so added shall be deemed to be socially and educationally backward class specified in the Schedule for the purposes of this Act.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which it is so laid or the session immediately following. Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

4. *Establishment and Incorporation of Corporation.*—(1) For the purpose of securing the uplift of backward class citizens in the State of Gujarat the State Government may, by notification in the Official Gazette, establish a Corporation by the name of the Gujarat Backward Classes Development Corporation with effect from such date as may be specified in the notification.

(2) The Corporation shall be a body corporate with perpetual succession and common seal and may sue and be sued in its corporate name, and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

5. *Headquarters of Corporation.*—The headquarters of the Corporation shall be at Gandhinagar or at such other place as the State Government may, by notification in the Official Gazette, specify.

6. *Constitution of Corporation.*—(1) The Corporation shall consist of not more than fifteen directors who shall be nominated by the State Government :

Provided that not less than three directors shall be officials and the remaining directors shall be non-officials who shall be nominated from amongst persons who, in the opinion of the State Government, have special knowledge or practical experience in matters relating to agriculture, agro-industries, water development projects, finance, co-operation and socio-economic problems of socially and educationally backward class citizens :

Provided further that not less than six directors shall be socially and educationally backward class citizens.

(2) The State Government shall appoint one of the directors as Chairman.

(3) The State Government shall appoint one of the official directors to be the managing director of the Corporation.

7. *Term of office and conditions of appointments of directors.*—(1) A director, other than the managing director, shall hold office for a term of two years from the date of his nomination :

Provided that an outgoing director shall, notwithstanding the expiration of his term, continue to hold office until the nomination of his successor.

(2) An outgoing director shall be eligible for being renominated on the Corporation.

(3) Subject to the provisions of this Act, the terms and conditions of the appointment of the directors other than the managing director and the fees and allowances payable to them shall be such as may be prescribed.

8. *Filling up casual vacancies.*—On the occurrence of any vacancy in the office of a director due to death, resignation or any other reason, the same shall be filled up by the State Government in the manner provided in section 6 and a person nominated as director to fill such vacancy shall hold office for the unexpired portion of the term of his predecessor.

9. *Disqualifications for office of director.*—A person shall be disqualified for being nominated as, and for being, a director, if he—

(a) is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors ; or

(b) is of sound mind and stands so declared by a competent court ; or

(c) is, or has been, convicted of any offence which, in the opinion of the State Government, involves moral turpitude or convicted under Protection of Civil Rights Act, 1955 (XXII of 1955) ; or

(d) is, or has been, removed or dismissed from the service of any State Government or the Central Government or a Corporation owned or controlled by any State Government or the Central Government.

10. *Director not to participate in certain Cases.*—A director who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Corporation shall, as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Corporation and the director shall not take any part in any deliberation or decision of the Corporation with respect to

that matter.

11. *Removal and resignation of director.*—(1) Notwithstanding anything contained in section 7, the State-Government may, at any time, remove any director from office, if, in its opinion, such a director—

(a) is, or has become, subject to any disqualification mentioned in section 9 ;

(b) is absent without leave of the Corporation from more than consecutive meetings thereof without cause sufficient, in the opinion of the Corporation, to exonerate his absence ;

(c) has acted in contravention of the provisions of section 10 ; or

(d) has been guilty of misconduct in the discharge of his duties :

Provided that no order of removal shall be passed without giving the director a reasonable opportunity of showing cause against the proposed order.

(2) A director may resign his office by giving notice thereof in writing to the State Government and on such resignation being accepted he shall be deemed to have vacated his office.

12. *Managing director.*—(1) The managing director shall be a whole time officer of the Corporation and shall—

(a) be the Chief Executive Officer of the Corporation,

(b) be responsible for the operational management of the Corporation and implementation of the general policy approved by the Corporation,

(c) perform such duties as the Corporation may, by regulations or otherwise, assign to him,

(d) receive such salary and allowances and be governed by such terms and conditions of service as may be approved by the State Government in consultation with the Corporation.

(2) If the managing director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment the State Government may appoint another person to act in his place during his absence.

13. *Officers and other employees of Corporation.*—(1) The Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions and determine by regulations or otherwise their conditions of appointment and service and the remuneration payable to them.

(2) The Corporation may, by general or special order, delegate to the managing director or to any other officer or employee of the Corporation, subject to such conditions and limitations, if any, as may be specified, such of its powers and duties under this Act except the power to make regulations, as it may deem necessary.

14. *Meetings of Corporation.*—(1) The Corporation shall meet at such time and place and shall observe such rule of procedure in regard to the transaction of business at its meetings (including the quorum at such meeting) as may be provided by regulations.

(2) The Chairman, or, if for any reasons he is unable to attend any meeting, any other director elected by the directors present at the meeting, shall preside at the meeting of the Corporation.

(3) All the questions which come up before any meeting of the Corporation shall be decided by a majority of the votes of directors pre-

sent and voting, and in the event of an equality of votes, the Chairman, or, in his absence, the person presiding, shall have and exercise a second or casting vote.

15. *Acts and proceedings presumed to be valid notwithstanding any defect.*—(1) No act or proceeding of the Corporation shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in, the constitution of the Corporation.

(2) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his nomination.

16. *No disqualification in certain cases.*—No person shall be disqualified for being chosen as, or being, a member of the Legislative Assembly of the State by reason only of the fact that he is a Chairman or a director.

CHAPTER III

Functions and Powers of the Corporation

17. *Functions and Powers of the Corporation.*—(1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to undertake the task of social and economic uplift of the socially and educationally backward class citizens in the State of Gujarat and the Corporation shall be competent to do all things and to exercise all the powers necessary for the performance of such duties.

(2) Without prejudice to the generality of the foregoing provisions, such power of the Corporation shall include the power—

(i) to plan and promote, on its own or in collaboration with or through such backward class organisations or other agencies as may be approved by the Corporation, any programme of agricultural development, marketing, processing, supply and storage of agricultural produce, small scale industry, building construction, transport and such other activities as may be approved in this behalf by the State Government ;

(ii) to undertake, on its own or in collaboration with or through such backward class organisations or other agencies as may be approved by the Corporation, any activities in relation to any of the matters specified in clause (i), for furthering the objects of the Corporation ;

(iii) to give on hire agricultural or industrial machinery or equipments to the members of the backward class organisations ;

(iv) to give grants and subsidies to, and to guarantee loans taken by the members of backward class organisations ;

(v) to encourage employment opportunities for the backward class citizens ;

(vi) to undertake any other activity which the State Government may entrust to the Corporation ;

(vii) to grant loans or obtain covered loans to the socially and educationally backward class citizens or backward class organisation ;

(viii) to borrow money subject to such conditions as the State Government may specify ;

(ix) to issue bonds and debentures ;

(x) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, hundies, bills, warrants, debentures and other negotiable instruments ;

(xi) to invest or deposit surplus funds of the Corporation in Government securities or in such other manner as the State Government may, by general or special order, direct; and

(xii) to discharge such other functions as may be prescribed or as are supplemental, incidental or consequential to any of the functions conferred on it by or under this Act.

CHAPTER IV

Finance, Accounts and Audit

18 State Government to provide initial capital.—The State Government may provide to the Corporation such sum not exceeding five crores of rupees as the State Government may think fit as capital that may be required by the Corporation for the purpose of carrying out its functions :

Provided that where the capital initially provided is less than five crores of rupees the State Government may, from time to time, increase the capital to sum not exceeding five crores of rupees.

(2) Such capital may be provided subject to such terms and conditions as may be determined by the State Government.

(3) The capital so provided shall form part of the fund of the Corporation.

19. Fund of Corporation.—(1) The Corporation shall have its own fund.

(2) The Corporation may accept grants, subventions and donations and gifts from the Central or State Government or a local authority or any individual or body of individuals whether incorporated or not, for all or any of the purposes of this Act.

(3) All sums which may from time to time be paid to it by the State Government and all other receipts of the Corporation shall be carried to the fund of the Corporation and all payments by the Corporation shall be made therefrom.

(4) The Corporation may spend such sums as it thinks fit for the performance of its functions under this Act, and such sums shall be treated as expenditure payable out of the funds of the Corporation.

(5) All moneys belonging to the fund of the Corporation shall be deposited in such bank or invested in Government securities or in such other manner as the State Government may, by general or special order, direct

20 Accounts.—(1) The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Corporation shall cause books of accounts of the Corporation to be balanced and closed on the thirty-first day of March, every year.

21. Audit.—(1) The accounts of the Corporation shall be audited once in every financial year, by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956), who shall be appointed by the Corporation and shall receive such remuneration from the Corporation as the Corporation may fix.

(2) The auditors shall be supplied with a copy of the annual balance sheet and the income and expenditure account of the Corporation and it shall be duty of the auditors to examine them together with the accounts and vouchers relating thereto and they shall have a list delivered to them

of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may require from any director or officer of the Corporation such information as they may think necessary for the performance of their duties as auditor.

(3) The auditors shall make a report to the Corporation upon the annual balance sheet and accounts examined by them and in every such report shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Corporation.

(4) The Corporation shall furnish to the State Government a copy of its balance-sheet and accounts together with a copy of the report made by auditors under sub-section (3) and a report on the working of the Corporation during the relevant period, within four months from the date on which its accounts are closed and balanced.

(5) Copies of the reports referred to in sub-section (4) shall be laid by the State Government, as soon as may be, before the State Legislature.

CHAPTER V Miscellaneous

22. *Advisory Committee.*—(1) The State Government may from time to time constitute an Advisory Committee consisting of such number of persons as it may think fit and on such terms and conditions as may be prescribed.

(2) The Corporation may, if it thinks fit, consult the Advisory Committee on any business coming before it and shall do so in respect of such business as the State Government may, by general or special order in this behalf specify or when required by the regulations so to do.

(3) The Advisory Committee shall meet at such intervals as may be prescribed, and for the transactions of urgent business on such other occasions as the Chairman of the Corporation may require.

(4) The number of members necessary to constitute a quorum at the meeting of Advisory Committee shall be such as the State Government when constituting the Committee may specify.

23. *Recovery of money due to Corporation.*—(1) Where any amount is due to the Corporation from any person in respect of advances or other financial accommodation granted by it such amount shall, on a certificate being granted by the managing director in the prescribed form, be recoverable as arrears of land revenue by the Collector of the district in which the person from whom the amount is due resides or carries on business or owns any property.

(2) Before issuing the certificate referred to in sub-section (1), the managing director shall make an application to such officer, as may be empowered by the State Government in this behalf and that officer shall, after giving an opportunity of being heard to the person concerned and after such further enquiry as he may consider necessary, by an order determine the amount due to the Corporation and communicate the same to the managing director.

(3) An appeal against an order passed by the officer empowered under sub-section (2) shall lie within such period and to such authority as may be prescribed.

(4) The officer empowered under sub-section (2) and the appellate authority shall follow such procedure as may be prescribed.

(5) The certificate issued by the managing director under sub-section (1) shall be final and conclusive and shall not be called in question before any authority or court.

(6) For the purpose of recovering any amount due to the Corporation in respect of a loan it shall not be necessary to proceed against the principal before proceeding against his surety.

24. *Dissolution.*—(1) No provision of law, other than this Act relating to the winding up, dissolution or liquidation of the companies or corporation shall apply to the Corporation.

(2) The State Government may, if the Corporation fails to carry out its functions or exceeds its powers, or upon receipt of a report under section 21, call upon the Corporation to show cause why it should not be dissolved and if no explanation is offered within the specific period or if the State Government is not satisfied with the explanation, the State Government may dissolve the Corporation from such date as may be specified.

25. *Consequence of dissolution of Corporation.*—(1) When the Corporation is dissolved under section 24,—

(i) all directors shall, from the date of dissolution, vacate their offices ;

(ii) all powers and duties of the Corporation shall, during the period of dissolution, be exercised and performed by such person as the State Government may appoint in this behalf ;

(iii) all funds and other property vested in the Corporation shall, during the period of dissolution, vest in the State Government.

(2) The State Government may reconstitute the Corporation after such period as it may think fit.

26. *Protection of action taken in good faith.*—No suit or other legal proceeding shall lie against the Corporation or any director including the managing director, or any officer or other employee or any other person authorised by the Corporation to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done by him in pursuance of this Act.

27. *Indemnity to directors.*—(1) Every director shall be indemnified against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for the acts of any other director or for the acts of any officer or other employee of the Corporation or for any loss or expenses resulting to the Corporation by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation in good faith, or by the insolvency or wrongful act of any debtor or any person under obligation to the Corporation, or anything done in good faith, in the execution of the duties of his office or in relation thereto.

28. *Power of Corporation to make regulations.*—(1) The Corporation may make regulations not inconsistent with the provisions of this Act and rules made thereunder, to provide for all matters for which provisions is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations, may provide for all or any of the following matters, namely :—

(a) the time and place of meetings of the Corporation and the procedure to be followed in relation to such meetings including the quorum necessary for the transaction of business ;

(b) the duties which the managing director shall perform ;

(c) the duties, conduct, salaries, allowances and conditions of service of officers and other employees of the Corporation ;

(d) the delegation of powers and functions to the officers and other employees of the Corporation ;

(e) the establishment and maintenance of provident and other benefit funds for the officers and employees of the Corporation ;

(f) any other matter which is, or may be, necessary for efficient conduct of the affairs of the Corporation.

29. *Power of State Government to make rules.*—(1) The State Government may, by notification published in the Official Gazette, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term and conditions of services of the directors and the fees and allowances payable to them ;

(b) functions, in addition to those specified in sub-section (2) of section 17, to be discharged by the Corporation and the conditions and restrictions subject to which those functions shall be discharged ;

(c) the form and manner in which accounts shall be maintained and the balance-sheet and income and expenditure account shall be prepared ;

(d) the form in which certificate shall be issued by the managing director, the period within which and the authority before whom an appeal shall be filed, and procedure to be followed by the appellate authority under section 23.

(e) any other matter which is required to be or may be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

SCHEDULE

[See clause (b) of section 2]

1. Agri.
2. Ahir, Ayar-Boricha.
3. Bafan (Muslim).
4. Barot, Vahivancha Charan Gadhvi.
5. Bavri or Baori.
6. Bawa :—Atit Bawa, Goswami, Valragi Bawa, Gosai, Dashnam Goswami, Ramanadi, Puri, Bharti, Kapdi, Nath Bawa, Bharathari, Margi, Gangajalia, Dashnami Bawa, Giri.

7. Bhalia.
8. Bhamta, Pardeshi-Bhamta.
9. Bharwad, Motabhai Bharwad, Nanabhai Bharwad.
10. Bhoi, Bhoiraj, Dhimar, Zinga Bhoi, Kevat Bhoi, Bhanara Bhoi, Machhindra Bhoi, Palewar Bhoi, Kirat Bhoi, Kahar Bhoi, Pardeshi Bhoi, Shrimali Bhoi.
11. Charan Gadhvi.
12. Chhara, Adodia, Sansi,
13. Chunara.
14. Chuvalia Koli.
15. Dabgar.
16. Divecha Koli.
17. Dafer (Hindu and Muslim).
18. Dhobi.
19. Fakir or Faquir (Muslim).
20. Gadhai (Muslim).
21. Gadalia or Gadi Luharia.
22. Galiara (Muslim).
23. Ghanchi (Muslim).
24. Ghedia Koli.
25. Gola-rana.
26. Hingora (Muslim).
27. Julaya, Garana, Taria and Tari (all muslims).
28. Jat (Muslim).
29. Kaikadi.
30. Kambadia Bhagat.
31. Kangasia.
32. Khatki or Kasaai, Chamadia Khatki, Halari Khatki (all Muslims).
33. Khatik.
34. Khant.
35. Kharwa-Bhadela.
36. Khristi, Gujarati-Christian (Converts from Scheduled Castes only).
37. Koli, Idaria Koli, Kharwa-Koli, Rathwa-Koli, Baria-Koli. Dhebaria-Koli.
38. Labana, Mehravat, Goti, Hadkashi, Zod, Dhinga, Pelya, Shatbai, Baman.
39. Lodha.
40. Mir, Dhabhi, Langha, Misrasi (all muslims).
41. Machhi (Hindu), Kharwa, Khalas, Dhimar, Dhivar, Bitna, Tandel Mangela, Chalasi, Sarang, Kahar.
42. Madari, Nath, Bharathari.
43. Majothi Kumbhar, Darban or Darban Majothi (all muslims.)
44. Makrani (Muslim.)
45. Matwa or Matwa-Kurcshi (muslim), Gavli (Hindu).
46. Me or Meta.
47. Mena (Bhil).
48. Mer.
49. Miyana (Muslim).
50. Nat, Nat-Bajania, Bajigar, Natada.
51. Od.

52. Padmashali-Pattushali.
53. Pinjara, Ghanchi-Pinjara, Mansuri-Pinjara (all muslims).
54. Rabri, Bhopa, Kodiator, Sorathia, Champya.
55. Rathodia.
56. Raval-Ravalia, Jati or Raval Yogi, Rawal Jati, Jagaria.
57. Salat (excluding Sompura Salat), Ghera.
58. Sandhi (Muslim).
59. Sarania.
60. Sargara.
61. Sharawan, Sarwan.
62. Shikligar.
63. Siddi.
64. Sipai, Painsi Jamat or Turk Jamat (All Muslims).
65. Talpada Koli.
66. Tankar.
67. Targala, Bhavaiya, Nayak, Bhojak.
68. Thakarda, Thakore, Patanwadia, Dharala, Baria.
69. Theba (Muslim).
70. Nadi.
71. Vahivancha Dharan-Gadhvi of Harijan Vankar and Chamar.
72. Valand, Nayi and Babar (Hindu), Hajam, Khalipha (Muslim). Vankar-Sadhu.
74. Vansfoda, Vansfodia or Vanza.
75. Vanzara, Shinagwada and Kangsiwala (Hindu) and Vanzara (Muslim) of Dangs District only.
76. Waghari, Dataniya Waghari, Vedu Waghari, Talpada Waghari, Gamachia Waghari, Godadia Waghari, Chibhadia Waghari, Marwada or Marwada Waghari.
77. Wagher (Hindu and Muslim).
78. Wandhara.

THE GUJARAT PREVENTION OF ANTI-SOCIAL ACTIVITIES ACT, 1985.

The following Act of the Gujarat Legislature having been assented to by the President on the 1st August, 1985 was published in the *Gujarat Govt. Gazette* Part IV, dated the 2nd August, 1985.

GUJARAT ACT NO. 16 OF 1985

An Act to provide for preventive detention of boot-leggers, dangerous persons, drug offenders, immoral traffic offenders and property grabbers for preventing their anti-social and dangerous activities prejudicial to the maintenance of public order.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Gujarat Prevention of Anti-social Activities Act, 1985.

(2) It extends to the whole of the State of Gujarat.

(3) It shall be deemed to have come into force on the 27th May, 1985.

2. *Definition.*—In this Act, unless the context otherwise requires,—

(a) “authorised officer” means a District Magistrate or a Commissioner of Police authorised under sub-section (2) of section 3 to exercise the powers conferred under sub-section (1) of that section ;

(b) "boot-legger" means a person who distills, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any provision of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949) and the rules and orders made thereunder, or of any other law for the time being in force or who knowingly expends or applies any money or supplies any animals, vehicle vessel or other conveyance or any receptacle or any other material whatsoever in furtherance or support of the doing of any of the things described above by or through any other person, or who abets in any other manner the doing of any such thing ;

(c) "dangerous person" means a person, who either by himself or as a member or leader of a gang, during a period of three successive years habitually commits, or attempts to commit or abets the commission of any of the offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code (XLV of 1860) or any of the offences punishable under Chapter V or the Arms Act 1959 (54 of 1959);

(d) "detention order" means an order made under section 3 ;

(e) "detenu" means a person detained under a detention order ;

(f) "drug-offender" means a person who manufactures, stocks, imports, exports, sells or distributes any drug or cultivates any plant or does any other things in contravention of any provisions of the Drugs and Cosmetics Act, 1940 (XIII of 1940), or the Dangerous Drugs Act, 1930 (II of 1930), or the rules and orders made under either Act or in contravention of any other law for the time being in force, or who knowingly expends or applies any money in furtherance or support of the doing of any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such thing ;

(g) "immoral traffic offender" means a person who habitually commits or abets the commission of any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (104 of 1956) ;

(h) "property grabber" means a person who illegally takes possession of any lands not belonging to himself but belonging to Government, local authority or any other person or enters into or creates illegal tenancies or leave and licence agreements or any other agreements in respect of such lands or who constructs unauthorised structures thereon for sale or hire or gives such lands to any person on rental or leave and licence basis for construction or use and occupation of unauthorised structures or who knowingly gives financial aid to any person for taking illegal possession of such lands or for construction of unauthorised structures thereon or who collects or attempts to collect from any occupiers of such lands rent, compensation or other charges by criminal intimidation or who evicts or attempts to evict any such occupiers by force without resorting to the lawful procedure or who abets in any manner the doing of any of the above mentioned things ;

(i) "unauthorised structure" means any structure constructed in any area without express permission in writing of the officer or authority having jurisdiction in such area required under the Bombay Land Revenue Code, 1879 (Bom. V of 1879) and the Gujarat Town Planning and Urban Development Act, 1976 (Presi. Act 27 of 1976) and the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), the Gujarat Municipalities Act, 1963 (Guj. 34 of 1964) or, as the case may be, the Gujarat

Panchayat Act, 1961 (Guj. VI of 1962) or except in accordance with any other law for the time being in force in such area

3. *Power to make orders detaining certain persons.*—(1) The State Government may if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.

(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct that the District Magistrate or the Commissioner of Police, may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section.

(3) When any order is made under this section by an authorised officer he shall forthwith report the fact to the State Government, together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the State Government

(4) For the purpose of this section, a person shall be deemed to be "acting in any manner prejudicial to the maintenance of public order" when such person is engaged in or is making preparation for engaging in any activities, whether as a bootlegger or dangerous person or drug offender or immoral traffic offender or property grabber, which affect adversely or are likely to affect adversely the maintenance of public order.

Explanation.—For the purpose of this sub-section, public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely *inter alia* if any of the activities of any person referred to in this sub-section directly or indirectly, is causing or is likely to cause any harm, danger or alarm or feeling of insecurity among the general public or any section thereof or a grave or widespread danger to life, property or public health.

4. *Execution of detention orders.*—A detention order may be executed at any place in the State in the manner provided for the execution of warrant of arrest under the Code of Criminal Procedure, 1973 (2 of 1974).

5. *Power to regulate place and conditions of detention.*—Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, within the State by order of the State Government.

6. *Grounds of detention severable.*—Where a person has been detained in pursuance of an order of detention under section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each ground and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

- (i) vague,
- (ii) non-existent,
- (iii) not-relevant,
- (iv) not connected or not proximately connected with such person,

or

(v) invalid for any other reason whatsoever, and it is not, therefore, possible to hold that the Government or the officer making such order would have been satisfied as provided in section 3 with reference to the remaining ground or grounds and made the order of detention ;

(b) the Government or the officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.

7. *Detention orders not to be invalid or inoperative on certain grounds.*—No detention order shall be invalid or inoperative merely by reason—

(a) that the person to be detained thereunder, though within the State, is outside the territorial jurisdiction of the authorised officer making the order, or

(b) that the place of detention of such person though within the state, is outside the said limits.

8. *Powers in relation to absconding persons.*—(1) If the State Government or any authorised officer has reason to believe that a person in respect of whom a detention order has been made has absconded, or is concealing himself so that the order cannot be executed, then the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply in respect of such person and his property, subject to the modifications mentioned in this sub-section and, irrespective of the place where such person ordinarily resides the detention order made against him shall be deemed to be a warrant issued by a competent Court. Where the detention order is made by the State Government, an officer, not below the rank of a District Magistrate or a Commissioner of Police authorised by the State Government in this behalf, or where the detention order is made by an authorised officer, the authorised officer, as the case may be, shall, irrespective of his ordinary jurisdiction, be deemed to be empowered to exercise all the powers of the competent Court under sections 82, 83, 84 and 85 of the said Code for issuing a proclamation for such person and for attachment and sale of his property situated in any part of the State and for taking any other action under the said sections. An appeal from any order made by any such officer rejecting an application for restoration of attached property shall lie to the Court of Sessions having jurisdiction in the place where the said person ordinarily resides, as provided in section 86 of the said Code.

(2) (a) Notwithstanding anything contained in sub-section (1), if the State Government or an authorised officer has reason to believe that person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the State Government or the officer, as the case may be, may by order notified in

the Official Gazette, direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(b) Where such person fails to comply with such order, then unless he proves that it was not possible for him to comply therewith, and that he had, within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance therewith impossible and of his whereabouts, or proves that it was not possible for him to so inform the officer mentioned in the order, he shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(c) Notwithstanding anything contained in the said Code, every offence under clause (b) shall be cognizable.

9. *Grounds of order of detention to be disclosed to detenu.*—(1) When a person is detained in pursuance of a detention order the authority making the order shall, as soon as may be, but not later than seven days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

10. *Constitution of Advisory Boards.*—(1) The State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of a Chairman who is or has been a Judge of a High Court and two other members who are or have been District Judges qualified under the Constitution to be appointed as Judges of a High Court.

11. *Reference to Advisory Board*—In every case where a detention order has been made under this Act the State Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 10 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and where the order has been made by an authorised officer, also the report made by such officer under sub-section (3) of section 3.

12. *Procedure of Advisory Board.*—(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the detenu and if, in any particular case, the Advisory Board considers it essential so to do or if the detenu desires to be heard, after hearing the detenu in person, submit its report to the State Government, within seven weeks from the date of detention of the detenu.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the detenu.

(3) When there is a difference of opinion among the members forming the Advisory Board the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) The proceedings of the Advisory Board and its report excepting that part of the report in which the opinion of the Advisory Board is specified shall be confidential.

(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.

13. *Action upon report of Advisory Board.*—(1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of the detenu, the State Government may confirm the detention order and continue the detention of the detenu for a period, not exceeding the maximum period prescribed by section 14 as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion no sufficient cause for the detention of the person concerned, the State Government shall revoke the detention order and cause the detenu to be released forthwith.

14. *Maximum period of detention.*—The maximum period for which any person may be detained in pursuance of any detention order made under this Act which has been confirmed under section 13, shall be one year from the date of detention.

15. *Revocation of detention orders.*—(1) Without prejudice to the provisions of section 21 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), a detention order may, at any time for reasons to be recorded in writing, be revoked or modified by the State Government, notwithstanding that the order has been made by an authorised officer.

(2) The expiry or revocation of a detention order (hereinafter in this sub-section referred to as "the earlier detention order") shall not bar the making of another detention order (hereinafter in this sub-section referred to as "the subsequent detention order") under section 3 against the same person :

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall in no case extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order.

16. *Temporary release of persons detained.*—(1) The State Government may, at any time, for reasons to be recorded in writing, direct that any person detained in pursuance of a detention order may be released for any specified period, either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any detenu under sub-section (1), the State Government may require him to enter into a bond with or without sureties, for the due observance of the conditions specified in the direction.

(3) Any detenu released under sub-section (1), shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any detenu fails without sufficient cause to surrender him-

self in the manner specified in sub-section (3), he shall on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any detenu released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

17 *Protection of action taken in good faith.*—No suit, prosecution, or other legal proceeding shall lie against the State Government or any officer or person, for anything in good faith done or intended to be done in pursuance of this Act.

18. *Matters within the purview of this Act to be dealt with under this Act only.*—On and after the commencement of this Act, no order of detention under the National Security Act, 1980 (65 of 1980) shall be made by the State Government or any officer subordinate to it, in respect of any boot-legger, drug offender, dangerous person, immoral, traffic offender, or property-grabber in the State on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, in so far as an order under this Act, could be made for detention of such person.

19. *Repeal and saving.*—(1) The Gujarat Prevention of Anti-social Activities Ordinance, 1985 (Guj. Ord. 11 of 1985) is hereby repealed.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act ;

(b) every person in respect of whom an order of detention has been made under section 3 of the said Ordinance by reason of his being a dangerous person and is in force immediately before the date on which the assent to this Act of the President is first published in the Official Gazette, (hereinafter referred to as "the said date"), shall, notwithstanding that his detention has been rendered inconsistent with section 3 of this Act, continue to be under detention subject to the provisions of this Act ;

(c) (i) an Advisory Board constituted under section 10 of the said Ordinance and functioning immediately before the said date shall, notwithstanding that its constitution has been rendered inconsistent with the provisions of section 10 of this Act, continue to so function after the said date subject to the provisions of this Act :

(ii) any reference made under section 11 of the said Ordinance and pending before such Advisory Board immediately before the said date may continue to be dealt with by that Board after that date as if such Board had been constituted under section 10 of this Act.

THE BOMBAY LAND REQUISITION (GUJARAT AMENDMENT) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the President on the 31st July, 1985, was published in the *Gujarat Govt. Gazette (Ext.)*, Part IV, dated August 1, 1985.

GUJARAT ACT NO. 13 OF 1985

An Act, further to amend the Bombay Land Requisition Act, 1948.

It is hereby enacted in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Bombay Land Requisition (Gujarat Amendment) Act, 1985**.

(2) It shall be deemed to have come into force on the 1st August, 1985.

2. *Insertion of new section 8AA in Bom. XXXIII of 1948*.—In the Bombay Land Requisition Act, 1948 (Bom. XXXIII of 1948) (hereinafter referred to as “the principal Act”), after section 8, the following section shall be inserted, namely :—

“8-AA. *Revision of amount of compensation*—(1) (a) In a case where any land which has been subject to requisition under this Act for a period of five years or a longer period immediately preceding the commencement of the Bombay Land Requisition (Gujarat Amendment) Act, 1985 (Guj. 13 of 1985), the amount of compensation determined under section 8 shall, in respect of such land be revised with effect from the date of such commencement.

(b) In a case where any land which has been subject to requisition under this Act immediately before such commencement for a period shorter than five years and the maximum period within which such land shall, in accordance with the provisions of sub-section (1-A) of section 9, be released from such requisition, extends beyond five years from such commencement, the amount of compensation determined in respect of such land under section 8 shall be revised with effect from the date of expiry of five years from the date on which possession of such land had been surrendered or delivered to or taken by the State Government or any officer authorised or empowered by the State Government.

(2) The provisions of section 8 and section 8-A-1 shall, so far as may be, apply to revision of the amount of compensation under this section as they apply to the determination of the amount of compensation under section 8 as if such land had been requisitioned or continued to be subject to requisition, under this Act on the date with effect from which the revision has to be made under sub-section (1).”

3. *Amendment of section 9 of Bom. XXXIII of 1948*.—In the principal Act, in section 9, in sub-section (1A), for the words “five years” where they occur at two places, the words “seven years” shall be substituted.

THE GUJARAT STATE TAX ON PROFESSIONS TRADES, CALLINGS AND EMPLOYMENTS (AMENDMENT) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 1st August, 1985 was published in the *Gujarat Govt. Gazette*, (Ext.), Part IV, dated August 2, 1985.

GUJARAT ACT NO. 15 OF 1985

An Act further to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement*.—This Act may be called the **Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 1985**.

(2) It shall be deemed to have come into force on the 1st April, 1985.

2 Amendment of Schedule I of President's Act No. 11 of 1976—In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (Presi. Act No. 11 of 1976), in Schedule, I,—

(1) for entry 2, the following entry shall be substituted, namely :—

“2. (a) Legal practitioners including solicitors and notaries public.
(b) Medical practitioners including medical consultants and dentists.

(c) Technical and professional Consultants, including Architects, Engineers, RCC Consultants, Tax Consultants, Chartered Accountants, Actuaries and Management Consultants.

(d) Chief Agents, Principal Agents, Special Agents Insurance Agents and Surveyors of Loss Assessors, registered or licensed under the Insurance Act, 1938 (4 of 1938).

(e) Plumbers—

where the standing in the profession or calling of any of the persons mentioned above in a specified area is—

(i) upto five years

(ii) more than five years but not more than ten year

(iii) more than ten years

Nil

Rs. 150/-
every year

Rs. 250/-
every year

Explanation I.—For the purpose of determining the standing in the profession or calling of any person mentioned in this entry in any specified area the previous standing of such person in any other area in the State shall be taken into account.

Explanation II.—For the purposes of this entry “specified area” means—

(a) a city,

(b) (i) a municipal borough, or

(ii) a local area

the population of which as ascertained in the last preceding census is more than 25,000 ;

(c) (i) a district headquarter or

(ii) a taluka headquarter

irrespective of its population

Explanation-III.—In Explanation II—

(a) the expression “local area” means—

(i) a notified area as constituted from time to time or deemed to be constituted under the Gujarat Municipalities Act, 1963 (Guj 34 of 1963).

(ii) a cantonment as declared from time to time under the Cantonments Act, 1924 (11 of 1924) ;

(b) the expression “district headquarter” means a city, town or village where the office of a Collector who exercises throughout the district all the powers and discharges all the duties conferred and imposed on a Collector under the Bombay Land Revenue Code, 1879, (Bom I of 1879) is situate ;

(c) the expression “taluka headquarter” means a city, town or village where the office of the Mamlatdar entrusted with the local revenue

jurisdiction of a taluka. is situate ;

(2) Nothing in this entry shall apply to a person whose annual income exclusively earned out of the profession or calling or both of them in the year immediately preceding does not exceed Rs. 10,000.”;

(2) for entry 5, the following entry shall be substituted, namely :—

“5. Employers of establishments as defined in the Bombay Shops and Establishments Act, 1948 (Bom. XXXIX of 1948) (not being dealers covered by entry 6), where on an average employees employed in the establishment during a year are more than five per day,—
if the establishment is situated in—

(i) any City..

Rs 250/- every year

(ii) a municipal borough, the population of which as ascertained at the last preceding census is more than 1,00,000 and in the area adjoining such municipal borough to the extent of 3 kilometres from its limits..

Rs. 200/- every year

(iii) a specified area..

Rs 150/- every year

Explanation I.—For the purposes of item (iii) of this entry and item (iii) of entry 8, “specified area” means—

(a) (i) a municipal borough, or

(ii) a local area

the population of which as ascertained in the last preceding census is more than 25,000 but not more than 1,00,000 ;

(b) (i) a district headquarter or

(ii) a taluka headquarter

not falling under either a City referred to in item (i) or a municipal borough referred to in item (ii) of this entry and entry 8 ;

Explanation II —In *Explanation I*—

(a) the expression “local area” means—

(i) a notified area as constituted from time to time or deemed to be constituted under the Gujarat Municipalities Act, 1963, (Guj. 34 of 1963).

(ii) a cantonment as declared from time to time under the Cantonments Act, 1925 (11 of 1924) ;

(b) the expression “district headquarter” means a city, town or village where the office of a Collector who exercises throughout the district all the powers and discharges all the duties conferred and imposed on a Collector under the Bombay Land Revenue Code, 1879 (Bom. 1 of 1879), is situate.

(c) the expression “taluka headquarter” means a city, town or village where the office of the Mamlatdar entrusted with the local revenue jurisdiction of a taluka, is situate.” ;

(3) for entry 8, the following entry shall be substituted, namely :—

“8. Money-lenders licensed under the Bombay Money-landers Act, 1946 (Bom. XXXI of 1947)—

(i) in a city..

Rs. 250/- every year

(ii) in a municipal borough, the population of which as ascertained at the last preceding census is more than 1,00,000 and in the area adjoining such municipal borough to the extent of 3 kilometres from its limits..

Rs. 200/- every year

(iii) in a specified area.. Rs. 150/- every year".

THE GUJARAT STATE GUARANTEES (AMENDMENT) ACT, 1985

The following Act of the Gujarat Legislature having been assented to by the Governor on the 2nd August, 1985 was published in the *Gujarat Government Gazette*, (Ext.), Part IV, dated 2nd August, 1985.

GUJARAT ACT No. 18 OF 1985.

An Act further to amend the Gujarat State Guarantees Act, 1963.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title*—This Act may be called the Gujarat State Guarantees (Amendment) Act, 1985.

2. *Amendment of section 2 of Guj. XXII of 1963.*—In the Gujarat State Guarantees Act, 1963 (Guj. XXII of 1963), in section 2, in sub-section (1), for the letters and figures "Rs 25,00,00,00,000", the letters and figures "Rs. 35,00,00,00,000" shall be substituted

THE GUJARAT SALES TAX (AMENDMENT) ACT 1985.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 1st August, 1985 was published in the *Gujarat Govt. Gazette*, (Ext), Part IV, dated 2nd August, 1985

GUJARAT ACT NO. 14 OF 1985.

An Act further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1985.

(2) It shall come into force on such date as the State Government, may by notification in the Official Gazette, appoint

2. *Amendment of section 2 of Guj. 1 of 1970.*—In the Gujarat Sales Tax Act, 1969 (Guj. 1 of 1970) (hereinafter referred to as "the principal Act"), in section 2,—

(1) in clause (4), the words "but does not include any activity in the nature of mere service or profession" shall be deleted ;

(2) in clause (10), for the portion beginning with the word "dealer" and ending with the words "or to other persons", the following portion shall be substituted, namely :—

" 'dealer' means any person who buys or sells goods in connection with his business, and includes,—

(a) the Central Government,

(b) a State Government,

(c) any local authority,

(d) any society, club or other association of persons which buys goods from or sells goods to its members or to other persons,

(e) any person who transfers, otherwise than in pursuance of a contract, property in any goods for cash, deferred payment or other valuable consideration,

(f) any person who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract,

(g) any person who delivers goods on hire-purchase or any system of payment by instalments,

(h) any person who transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration,

(i) any unincorporated association or body of persons which supplies goods to a member thereof for cash, deferred payment or other valuable consideration,

(j) any person who supplies, by way of or as part of any service or in any other manner whatsoever, goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration";

(3) after clause (10), the following clause shall be inserted, namely :—

“(10-A) ‘designated day’ means the date of the coming into force of the Gujarat Sales Tax (Amendment) Act, 1985”;

(4) for clause (19), the following clause shall be substituted, namely:—

“(19) ‘place of business’ means any place where a dealer carries on business and includes a warehouse, godown or other place where a dealer stores his goods and any place where he keeps his books of accounts”;

(5) in clause (22), for the words “when such cost is separately charged”, the following shall be substituted, namely :—

“when such cost is separately charged and includes,—

(a) in relation to,—

(i) the transfer, otherwise than in pursuance of a contract, of property in any goods,

(ii) the supply of goods by any unincorporated association or body of persons to a member thereof,

(iii) the supply by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating), the amount of cash, deferred payment or other valuable consideration paid or payable therefor;

(b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable by a person for the execution of such works contract the amount representing labour charges for such execution;

(c) in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable by a person for such delivery”;

(6) for clause (28), the following clause shall be substituted, namely:—

“(28) ‘sale’ means a sale of goods made within the State for cash or deferred payment or other valuable consideration and includes,—

(a) any supply by a society or club or an association to its members on payment of a price or of fees or subscription,

(b) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration,

(c) transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract,

(d) delivery of goods on hire purchase or any system of payment by instalments,

(e) supply of good by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration,

(f) supply by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration,

but does not include a mortgage, hypothecation, charge or pledge and the words "sell" buy, and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—For the purposes of this clause except sub-clause (c) and (d), "sale" within the State includes a sale determined to be inside the State in accordance with the principles formulated in sub-section (2) of section 4 of the Central Sales Tax Act, 1956 (LXXIV of 1956.);

(7) for clause (29), the following clause shall be substituted, namely:—

"(29) 'sale price' means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the dealer in respect of the goods at the time or of before delivery thereof, other than the cost of insurance for transit or of installation when such cost is separately charged and includes,—

(a) in relation to—

(i) the transfer, otherwise than in pursuance of a contract of property in any goods.

(ii) the transfer of the right to use any goods for any purpose (whether or not for a special period).

(iii) the supply of goods by any unincorporated association or body of persons to a member thereof.

(iv) the supply by way of or as part of any service or in any other manner whatsoever, of goods for food or any other article for human consumption or any drink (whether or not intoxicating),

the amount of cash, deferred payment or other valuable consideration paid or payable therefor;

(b) in relation to transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour charges for such execution;

(c) in relation to the delivery of goods on hire-purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery;";

(8) after clause (30B), the following clause shall be inserted, namely:—

"(30C) 'specified sale' means the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and unless the context otherwise requires, the words 'sell', 'buy' and 'purchase' with all their grammatical variations and cognate expressions shall be construed accordingly;";

(9) in clause (36), the word "and" appearing at the end, shall be deleted;

(10) after clause (36), the following clause shall be inserted, namely:—

"(36A) 'turnover of specified sales' means the aggregate of the amounts of sale price received or receivable by a dealer referred to in sub-clause (h) of clause (10) in respect of any specified sale made, during a given period."

3 *Insertion of new section 3A in Guj 1 of 1970.*—In the principal Act, after section 3, the following section shall be inserted, namely,—

"3A. *Liability of tax on the transfer of right to use any goods.*—(1) Every dealer referred to in sub-clause (10) of section 2, whose turnover of specified sales made during,—

(i) the year immediately preceding the year within which the designated day falls, or

(ii) the year commencing on the first day of the year within which the designated day falls' has exceeded or exceeds Rs. 50,000 shall, until such liability ceases under sub-clause (3), be liable to pay tax under this section on his turnover of specified sales made on or after the designated day :

Provided that a dealer to whom clause (i) does not apply but clause (ii) applies and whose turnover of all specified sales first exceeds the limit specified in this sub-section after the designated day, shall not be liable to pay tax in respect of specified sales as computed from the first day of the year in which the designated day falls first exceeds the limit specified in this section.

(2) Every dealer whose turnover of all specified sales made during any year being a year subsequent to the year mentioned in sub-section (1) first exceeds the limit specified in that sub-section shall, until such liability ceases under sub-section (3), be liable to pay tax under this section with effect on and from the first day of that year:

Provided that the dealer shall not be liable to pay tax in respect of specified sales as take place commencing on the first day of any such year up to the time when his turnover of specified sales as computed from the said first day, first exceeds the limit specified in sub-section (1).

(3) Every dealer, who has become liable to pay tax under this section shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax on specified sales other than the tax already levied or leviable, shall until his turnover of specified sales against first exceeds the limit specified in sub-section (1), cease :

Provided that where the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then, in respect of such specified sales as take place during the period commencing on the date of the cession of liability to pay tax upto the time when his turnover of specified sales first exceeds the limit specified in sub-section (1), no tax shall be payable.

(4) For the purpose of calculating the limit turnover for liability to tax under this section,—

(a) except as otherwise expressly provided, the turnover of all specified sales shall be taken into account whether such specified sales are taxable or not:

(b) the turnover shall include all specified sales made by a dealer on his own account, and also on behalf of principals mentioned in his

account.

(5) There shall be levied a sales tax on the turnover of specified sales of goods specified in Schedule IV at such rate not exceeding five paise in rupee as the State Government may, by notification in the Official Gazette, specify, and different rates may be specified for different goods mentioned in that Schedule or different classes of dealers."

4. *Amendment of section 4A of Guj. 1 of 1970*.—In the principal Act, in section 4A, in sub-section (1), for the words and figures "from every dealer liable to pay tax under section 3 or under section 4", the words, figures and letter "from every dealer liable to pay tax under section 3 or under section 3A or under section 4" shall be substituted.

5. *Amendment of section 15A of Guj. 1 of 1970*.—In the principal Act, in section 15A, for the words "one paise in the rupee", the words "two paise in the rupee" shall be substituted.

6. *Amendment of section 26 of Guj. 1 of 1970*.—In the principal Act, in section 26, in sub-section (6), for the words and figure "notwithstanding anything contained in section 3, be liable to pay tax on the sales or purchases" the words figures and letter "notwithstanding anything contained in section 3 or 3A, be liable to pay tax on the sales or the specified purchases" shall be substituted.

7. *Amendment of section 29 of Guj. 1 of 1970*.—In the principal Act, in section 29,—

(1) in sub-section (1) after the words and figure "under section 3", the words, figure and letter "or under section 3A", shall be inserted;

(2) in sub-section (7),—

(a) in clause (b), the word "or" shall be added at the end;

(b) after clause (b), the following clause shall be inserted, namely:—

"(c) the turnover of specified sales of a dealer has not, during the preceding year, exceeded the limit specified in sub-section (1) of section 3A".

8. *Amendment of section 44 of Guj. 1 of 1970*.—In the principal Act, in section 44,—

(1) for the words "any turnover of sales or turnover of purchases" the words "any turnover of sales or turnover of specified sales or turnover of purchases" shall be substituted;

(2) in clause (a), for the words "such sales or purchases" the words "such sales or specified sales or purchases" shall be substituted.

9. *Amendment of section 49 of Guj. 1 of 1970*.—In the principal Act, in section 49, in sub-section (2), for the words "exempt any specified class of sales or purchases," the words "exempt any specified class of sales or of specified sales or of purchases" shall be substituted.

10. *Amendment of section 50 of Guj. 1 of 1970*.—In the principal Act, in section 50, in sub-section (1),—

(a) for the words "If any specified class of sales or purchases" the words "If any specified class of sales or of specified sales or of purchases" shall be substituted;

(b) for the words and figure "notwithstanding anything contained in section 3, be liable to pay tax on such sale or purchase", the words, figures and letter "notwithstanding anything contained in section 3 or section 3A, be liable to pay tax on such sale, specified sale or purchase" shall be substituted.

11. *Amendment of section 55 of Guj. 1 of 1970*—In the principal Act, in section 55, in sub-section (1), for the words “of any specified class of sales or purchases”, the words “of any specified class of sales or specified sales or purchases” shall be substituted,

12. *Amendment of section 56 of Guj. 1 of 1970*—In the principal Act, in section 56, in sub-section (1), for the words “in respect of sale of any goods,” the words “in respect of sale or specified sale of any goods” shall be substituted.

13. *Amendment of section 57 of Guj. 1 of 1970*—In the principal Act, in section 57,—

(1) in clause (b), for the words “turnover of sales”, the words “turnover of sales or specified sales” shall be substituted ;

(2) for the words “from the date of sale”, the words “from the date of sale or specified sale”, shall be substituted.

14. *Amendment of section 58 of Guj. 1 of 1970*—In the principal Act, in section 58,—

(1) in sub-section (2), for the brackets and words “(including records of sales or purchases)”, the brackets and words “(including records of sales, specified sales or purchases)” shall be substituted;

(2) in sub-section (3), for the words “their purchases, sales or deliveries of goods”, the words “their purchases, sales, specified sales or deliveries of goods” shall be substituted.

15. *Amendment of section 61 of Guj. 1 of 1970*—In the principal Act, in section 59,—

(1) in sub-section (1), for the words “or to sales, purchases and deliveries of goods”, the words “or to sales, specified sales, purchases and deliveries of goods” shall be substituted ;

(2) in sub-section (2), for the words “or to purchases, sales and deliveries of goods”, the words “or to sales, specified sales, purchases and deliveries of goods” shall be substituted.

16. *Amendment of section 61-A of Guj. 1 of 1970*—In the principal Act, in section 61A, in clause (a), for the words “turnover of the sales or turnover of purchases”, the words “turnover of sales or turnover of specified sales or turnover of purchases” shall be substituted.

17. *Amendment of section 61-B of Guj. 1 of 1970*—In the principal Act, in section 61B, in sub-section (1), for the words “transactions of sales or purchases”, the words “transactions of sales, specified sales or purchases” shall be substituted.

18. *Amendment of section 61C of Guj. 1 of 1970*—In the principal Act, in section 61C, in sub-section (1), in the second proviso, for the words “turnover of sales or turnover of purchases”, the words “turnover of sales or turnover of specified sales or turnover of purchases” shall be substituted.

19. *Amendment of section 61G of Guj. 1 of 1970*—In the principal Act, in sub-section (1), for the words “turnover of sales or turnover of purchases”, the words “turnover of sales or turnover of specified sales or turnover of purchases” shall be substituted.

20. *Amendment of section 62 of Guj. 1 of 1970*—In the principal Act, in section 62,—

(1) in sub-section (1),—

(a) for clause (c), the following clause shall be substituted, namely :—

“(c) any transaction is a sale or specified sale or purchase, or”

(b) in clause (e), for the words “sale or purchase”, the words “sale, specified sale or purchase” shall be substituted ;

(2) in sub-section (2), for the words “any sale or purchase”, the words “any sale, specified sale or purchase” shall be substituted.

21. *Amendment of section 81 of Guj. 1 of 1970.*—In the principal Act, in section 81, in sub-section (1), for the words “on the sale, purchase or turnover” occurring at two places, the words “on the sale, specified sale purchase or turnover” shall be substituted.

22. *Amendment of Schedule I of Guj. 1 of 1970.*—In the principal Act, in Schedule I, after entry 68, the following entry shall be added, namely :—

1	2	3
“69	All kinds of hurricane lanterns and hurricane lamps and spare parts and accessories thereof.”	**

23. *Amendment of Schedule II Part A of Guj. 1 of 1970.*—In the principal Act, in Schedule II Part A—

(1) in entry 15, in columns 3 and 4, for the words “Six paise in the rupee”, the words “Ten paise in the rupee” shall be substituted ;

(2) in entry 27, in columns 3 and 4, for the words “Five paise in the rupee”, the words “Six paise in the rupee” shall be substituted ;

(3) in entry 32, in columns 3 and 4, for the words “Five paise in the rupee”, the words “Six paise in the rupee” shall be substituted ;

(4) in entry 32-A, in column 3 and 4, for the word “Do”, the words “Six paise in the rupee” shall be substituted ;

(5) for entry 33, the following entry shall be substituted, namely :—

1	2	3	4
“33	Sewing machines not fitted with accessory motor and spare parts and accessories thereof.	Four paise in the rupee	Four paise in the rupee”

(6) in entry 38, in columns 3 and 4, for the words “Eight paise in the rupee”, the words “Ten paise in the rupee”, shall be substituted ;

(7) for entry 43, the following entries shall be substituted, namely :—

1	2	3	4
“43	Timber (excluding firewood and wood specified in entry 6 of Schedule I	Ten paise in the rupee	Ten paise in the rupee.
43-A	Bamboo whether whole or split	Six paise in the rupee.	Six paise in the rupee.”

(8) in entry 58, in columns 3 and 4, for the words “Twenty paise in the rupee”, the words “Ten paise in the rupee” shall be substituted ;

(9) for entry 76, the following entry shall be substituted :—

1	2	3	4
“76	Mechanical water coolers, refrigerators and deep freezers and component parts and accessories thereof	Twenty paise in the rupee	Twenty paise in the rupee”

(10) in entry 77. in columns 3 and 4, for the words "Twelve paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted :

(11) for entry 80-A, the following entry shall be substituted, namely :—

1	2	3	4
"80A	(1) Television sets and antennae	Fifteen paise in the rupee	Fifteen paise in the rupee
	(2) Television camera, television monitors, close circuit television sets, cameras, video television, video cassettes, and video players and parts, accessories and components of any of them	Twenty paise in the rupee	Twenty paise in the rupee"

24. *Amendment of Schedule III of Guj. 1 of 1970.*—In the principal Act, in Schedule III,—

1	2	3	4
"3	Shaving cream, hair brush and tooth brush	Five paise in the rupee	Three paise in the rupee
3-A	Hair combs, hair pins, razor and razor blade, shaving brush, shaving soap and shaving stick	Three paise in the rupee	Three paise in the rupee

(2) in entry 4-A, in column 3, for the words "Five paise in the rupee" the words "Three paise in the rupee" shall be substituted ;

(3) for entry 12, the following entries shall be substituted, namely :—

1	2	3	4
"12	Toilet articles, that is to say, all articles used in cleansing or grooming parts of human body, including hair cream, hair tonic, shampoo but excluding soap	Twelve paise in the rupee	Three paise in the rupee
12-A	Dentifrices of all kinds excluding tooth powder	Five paise in the rupee	Three paise in the rupee
12-B	Tooth powder	Three paise in the rupee	Three paise in the rupee

25. *Insertion of new Schedule IV in Guj. 1 of 1970.*—In the principal Act, after Schedule-III, the following Schedule shall be inserted, namely :—

"SCHEDULE IV

(See section 3-A)

Goods, the transfer of the right to use, which is subject to sales tax,

Sl. No.	Description of goods
1.	Air conditioning plant
2.	Cinematographic and photographic equipments and appliances including studio equipments, cameras, projectors, enlarging lenses
3.	Cinematographic film
4.	Computers

5. Electric fans
6. Electrical goods
7. Furniture
8. Motor vehicles as defined in the Motor Vehicles Act, 1939
9. Plant and Machinery
10. Refrigerators
11. *Samiyana*
12. Sewing machines
13. Surgical equipments and machinery
14. Typewriters
15. Television, Vedio Casette, Recorders, Vedio Casette players
16. Utencils
17. X-Ray Machines

26. *Validation of imposition and collection of tax on certain sales.*—(1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, all taxes levied, assessed, or collected or purporting to have been levied assessed or collected under this Act on the transactions by way of supply of the nature referred to in sub-clause (f) of clause (28) of section 2 of the principal Act as amended by this Act during the period commencing on 2nd February, 1983 and ending on the commencement of this Act, shall be deemed to have been validly levied, assessed or collected in accordance with law as if the provisions of the principal Act as amended by this Act had been in force at all material times when such taxes were levied, assessed or collected, and accordingly,—

(a) no suit or other proceeding shall be made maintained or continued in any court or before any tribunal or authority for the refund of any such tax paid under the principal Act ;

(b) no court, tribunal or other authority shall enforce a decree or order directing the refund of any such tax paid under the principal Act ;

(c) any such tax levied or assessed under the principal Act before the commencement of this Act but not collected before such commencement may be recovered (after assessment of such tax where necessary) in the manner provided by or under the principal Act as amended by this Act.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person,—

(a) from questioning in accordance with the provisions of the principal Act as amended by this Act and the rules made thereunder the assessment of any such tax for any period, or

(b) from claiming refund of any such tax paid by him in excess of the amount due from him under the principal Act and the rules made thereunder.

Published in the *Gujarat Govt Gazette, Extraordinary*, Part IV,
dated October 19, 1985.

**THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL
OF DISQUALIFICATIONS) (AMENDMENT) ORDINANCE, 1985
GUJARAT ORDINANCE NO. 16 OF 1985**

*An Ordinance further to amend the Gujarat Legislative Assembly Members
(Removal of disqualifications) Act, 1960*

Whereas the Legislative Assembly of the State of Gujarat is not in session ;

And whereas the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 ;

Now therefore, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Guj. 1 of 1960 to be temporarily amended.*—During the period of opinion of this Ordinance, the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 (hereinafter referred to as “the principal Act”) shall have effect subject to the amendment specified in section 3.

3. *Amendment of the schedule to Guj. 1 of 1950.*—In the principal Act, in the Schedule, after entry 24, the following entry shall be added, namely :—

“25. The office of Chairman of the Film Development Corporation of Gujarat Limited.”

STATEMENT

The Film Development Corporation of Gujarat Limited formed by State Government would require an able Chairman having experience in the business of cinematography trade and industry and all its allied and kindred trades and business. Sometimes a member of the Gujarat Legislative Assembly may also be found suitable for being appointed as such Chairman but on account of the provision of disqualification in clause (1) of Article 191 of the Constitution, a doubt arises as to whether acceptance of the post of the Chairman by a member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It is, therefore, considered necessary to remove disqualification that might be incurred by a member of the Gujarat Legislative Assembly on being appointed as such Chairman. As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 to achieve the aforesaid object.

Gandhiaagar.

Dated the 18th October, 1985.

B. K. NEHRU,
Governor of Gujarat.

THE END

PART VI

MAHARASHTRA ACTS & ORDINANCES

1985

THE MAHARASHTRA VACANT LANDS (FURTHER) INTERIM PROTECTION TO OCCUPANTS FROM EVICTION AND RECOVERY OF ARREARS OF RENT) (EXTENSION OF DURATION) ACT, 1984.

The following Act of the Maharashtra Legislature received the assent of the President on 14th September, 1984 and was published in the *Maharashtra Govt. Gazette, (Ext.)* Part IV, dated September, 19, 1984.

MAHARASHTRA ACT NO. XXV OF 1984

An Act to extend the duration of the Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) Act, 1980.

Whereas it is expedient to extend the duration of the Maharashtra Vacant Lands (Further Interim Protection of Occupiers from Eviction and Recovery of Arrears of Rent) Act, 1980 (Mah. XVI of 1980) ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) (Extension of Duration) Act, 1984.**

2. *Amendment of Section 1 of Mah. XIV 1980.*—In section 1 of the Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) Act, 1980, (Mah. XVI of 1980.) in sub-section (3) for the words, figures and letters "the 30th September 1984" the words, figures and letters "the 30th September 1985" shall be substituted.

THE BOMBAY CIVIL COURTS (AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the President on 24th September, 1984 and was published in the *Maharashtra Govt. Gazette (Ext.)*, Part IV, dated September 28, 1984.

MAHARASHTRA ACT NO. XXVII OF 1984.

An Act further to amend the Bombay Civil Courts Act, 1869.

Whereas it is expedient further to amend the Bombay Civil Courts Act, 1869 (XIV of 1869) for the purposes hereinafter appearing ; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Bombay Civil Courts (Amendment) Act, 1984.**

2. *Amendment of Act XIV of 1869.*—Throughout the Bombay Civil Courts Act, 1869 (XIV of 1869). (including the marginal notes),—

(a) for the words “Assistant Judge”, wherever they occur, the words “Additional District Judge” shall be substituted ;

(b) for the words “Joint Judge”, wherever they occur, the words “Joint District Judge” shall be substituted ; and

(c) such amendments consequential to the amendments made by clauses (a) and (b), as the rules of grammar may require, shall be made.

3. *Effect of amendments made by Mah. X of 1983 on pending proceedings and saving.*—(1) The amendments made by the Bombay Civil Courts (Amendment) Act, (1982 Mah. X of 1983), which came into force on the 1st January 1984 (hereinafter in this section referred to as “the said date”) shall not have any effect in respect of, and apply to, any suits, appeals or other proceedings of a civil nature filed and pending before any court on the said date and such suits, appeals or other proceedings shall be continued and disposed of by that Court as if that Act had not been passed ; and any appeal, revision application or other proceeding of a civil nature in respect of any decree or order passed by any court before the said date shall be filed before and heard and disposed of by the court competent to entertain such proceedings before the said date as if that Act had not been passed.

(2) Any appeal, revision application or other proceeding of a civil nature in respect of any decree or order passed by any court before the said date filed in a court other than the court competent to entertain such proceedings before the said date during the period from the said date and the date of commencement of the Bombay Civil Courts (Amendment) Act, 1984 (Mah. XXVII of 1984.) (both days inclusive) shall be transferred to such court competent to entertain such proceedings as aforesaid ; and the proceedings so transferred shall be heard and disposed of by that court as if the Bombay Civil Courts (Amendment) Act, 1982 (Mah. X of 1983) had not been passed.

THE MAHARASHTRA VACANT LANDS (FURTHER INTERIM PROTECTION TO OCCUPANTS FROM EVICTION AND RECOVERY OF ARREARS OF RENT) (AMENDMENT) ACT, 1984.

The following Act of the Maharashtra Legislature received the assent of the President on 20th September, 1984 and was published in the *Maharashtra Govt. Gazette, (Ext.)*, dated September 24, 1984.

MAHARASHTRA ACT NO. XXVI OF 1984.

An Act further to amend the Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) Act, 1980.

Whereas, it is expedient further to amend the Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) Act, 1980 (Mah. XVI of 1980) for the purposes hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) (Amendment) Act, 1984.

2. *Insertion of section 4A in Mah. XVI of 1980.*—After section 4 of the Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) Act, 1980 (Mah. XVI of 1980), the following section shall be inserted, namely :—

“4A. *Provisions of sections 2, 3 and 4 not to apply to Government or local authorities.*—(1) Notwithstanding anything contained in sections 2, 3 and 4 but subject to the provisions of sub-section (2),—

(a) any suit, appeal, application or other proceedings for obtaining any decree or order for recovery of or collection of, from any such occupier, any rent, compensation, fees, service charges for providing any amenities or execution of any decree or order, for such recovery, as the case may be, by or on behalf of the Central Government, the State Government, a Municipal Corporation or Municipal Council constituted under any law for the time being in force, the Bombay Metropolitan Region Development Authority constituted under the Bombay Metropolitan Region Development Authority Act, 1974 (Mah. IV of 1975), the Authority or the Board constituted under the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), any other statutory corporation, Government company or local authority (hereinafter collectively referred to as “the said authorities”) in respect of any such land as is referred to in section 2 and belonging to any of the said authorities or any structure thereon, stayed and kept pending by any Court under section 3 for any such recovery shall be proceeded with further from the stage at which they were stayed ; and

(b) it shall be, and shall be deemed always to have been lawful for any of the said authorities to collect or recover or to take such action or appropriate proceedings as may be necessary to collect or recover any sum due and recoverable from the occupiers of such vacant land or structure as rent, compensation, fees, service charges for providing any amenities, as the case may be ; and

(c) any suit, appeal, application or other proceeding in respect thereof, if any, filed after the commencement of the Maharashtra Vacant Lands (Further Interim Protection to Occupiers from Eviction and Recovery of Arrears of Rent) (Amendment) Act, 1984 (Mah. XXVI of 1984) shall be entertained by the Court of competent jurisdiction :

Provided that, the provisions of section 5 shall, whenever necessary, apply to any such proceeding.

(2) Having regard to the stay granted by the Supreme Court in Civil Appeal No. 386 (NCM) of 1980, any action taken by the Municipal Corporation of Greater Bombay or the State Government under sub-section (1) shall be without prejudice to the directions contained in the said stay order.”

THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the President on 24th September, 1984 and was published in the *Maharashtra*

Govt. Gazette (Ext.), Part IV dated September 29, 1984.

MAHARASHTRA ACT NO. XXVIII OF 1984

An Act further to amend the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

Whereas it is expedient further to amend the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971); for the purposes hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Amendment) Act, 1984.**

2. *Amendment of section 2 of Mah. XXVIII of 1971.*—In section 2 of the Maharashtra Slum Areas (Improvement Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971) (hereinafter referred to as “the principal Act”), after clause (b), the following clause shall be inserted, namely :—

“(b-1) “Collector” means the Collector of a district and includes an Additional Collector or any officer specially appointed by the State Government to perform the functions of a Collector under this Act.”

3. *Amendment of section 14 of Mah. XXVIII of 1971.*—In section 14 of the principal Act, in sub-section (1), for the proviso the following shall be substituted, namely :—

“Provided that, before publishing such notice, the State Government, or as the case may be, the Collector may call upon by notice the owner of, or any other person who, in its or his opinion may be interested in, such land to show cause in writing why the land should not be acquired with reasons, therefore, to the Collector within the period specified in the notice ; and the Collector shall, with all reasonable despatch, forward any objections so submitted together with his report in respect thereof to the State Government and on considering the report and the objections, if any, the State Government may pass order as it deems fit.”

4. *Amendment of section 15 of Mah. XXVIII of 1971.*—In section 15 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Where any land is vested in the State Government under sub-section (2) of section 14, the Collector may, by notice in writing order any person who may be in possession of the land to surrender or deliver possession thereof to him, or to any person duly authorised by him in this behalf, within thirty days of the service of the notice.”

(b) in sub-section (2), for the words “the State Government” the words “the Collector or such authorised person” shall be substituted ;

(c) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) Where any land is taken possession of as aforesaid, the Collector shall make the land available to the Competent Authority and thereupon the Competent Authority may,

(a) itself carry out any order of demolition or execution of the work of improvement or of redevelopment ; or

(b) entrust, in accordance with the provisions of section 10A, the work of improvement or other works referred to in section to any other

agency including the Maharashtra Housing and Area Development Authority constituted under the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), or to a Co-operative Housing Society of the occupants on such land or occupants of any other area which has been declared as slum area under section 4.

(4) The State Government or the Collector, with the previous approval of the State Government, may, subject to such terms and conditions, as the State Government considers expedient for securing the purposes of this Act, transfer by way of lease such land with or without the improvement and other works carried out thereon, to the Co-operative Housing Societies of such occupants.”;

(d) for the marginal note, the following marginal note shall be substituted, namely :—

“Power of Collector to require person in possession of land to surrender or deliver possession thereof to him, etc.”

5. *Amendment of section 17 of Mah. XXVIII of 1971.*—In section 17 of the principal Act, in sub-section (2), for the words “the State Government” the words “the State Government, or as the case may be, the Collector” shall be substituted.

THE INDIAN PARTNERSHIP (MAHARASHTRA AMENDMENT) ACT, 1984.

The following Act of the Maharashtra Legislature received the assent of the President on 12th October, 1984 and was published in the Maharashtra Govt. Gazette, (Ext.) Part IV, dated October 17, 1984.

MAHARASHTRA ACT NO. XXIX OF 1984

An Act further to amend the Indian Partnership Act, 1932, in its application to the State of Maharashtra.

Whereas it is expedient further to amend the Indian Partnership Act, 1932 (IX of 1932), in its application to the State of Maharashtra, for the purposes hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Partnership (Maharashtra Amendment) Act, 1984.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2 of Act IX of 1932.*—In section 2 of the Indian Partnership Act, 1932 (IX of 1932), in its application to the State of Maharashtra (hereinafter referred to as “the principal Act”), after clause (c), the following clause shall be inserted, namely :—

“(c-1) “Regsitrar” means the Registrar of Firms appointed under sub-section (1) of section 57 and includes the Deputy Registrar of Firms and Assistant Registrar of Firms appointed under sub-section (2) of that section.”.

3. *Amendment of section 9 of Act IX of 1932.*—In section 9 of the principal Act, for the words “or his legal representative” the words, “his heir or legal representative” shall be substituted.

4. *Amendment of section 12 of Act IX of 1932.*—In section 12 of the principal Act,—

(a) in clause (c), the word "and" appearing at the end shall be deleted ;

(b) in clause (d), for the words "books of the firm," the words "books of the firm ; and" shall be substituted ;

(c) after clause (d), the following clause shall be added, namely:—

"(e) in the event of the death of a partner, his heirs or legal representatives or their duly authorised agent shall have a right of access to and to inspect and copy any of the books of the firm."

5. *Substitution of section 57 of Act IX of 1932.*—For section 57 of the principal Act, the following section shall be substituted, namely :—

"57. *Appointment of Registrar of Firms and Deputy and Assistant Registrars of Firms.*—(1) The State Government may, by notification in the Official Gazette, appoint a Registrar of Firms who shall exercise, perform and discharge the powers, functions and duties of the Registrar under this Act throughout the State of Maharashtra.

(2) The State Government may likewise appoint one or more Deputy Registrars of Firms and Assistant Registrars of Firms who shall exercise, perform and discharge all or such of the powers, functions and duties of the Registrar and in such areas as the State Government may, by notification in the Official Gazette, specify.

(3) The officers appointed under sub-section (1) and sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. (XIV of 1860)".

6. *Amendment of section 58 of Act IX of 1932.*—In section 58 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "The registration of a firm" the words, brackets, figure and letter "Subject to the provisions of sub-section (1A), the registration of a firm", shall be substituted ;

(ii) the words "at any time" shall be deleted ;

(iii) after the words, "prescribed fee" the words "and a true copy of the deed of partnership" shall be inserted ;

(iv) after clause (a), the following clause shall be inserted, namely :—

"(aa) the nature of business of the firm ;"

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) The statement under sub-section (1) shall be sent or delivered to the Registrar within a period of one year from the date of constitution of the firm :

Provided that in the case of any firm carrying on business on or before the date of commencement of the Indian Partnership (Maharashtra Amendment) Act, 1984 (Mah. XXIX of 1984), such statement shall be sent or delivered to the Registrar within a period of one year from such date." ;

(c) for sub-section (3), the following sub-sections shall be substituted, namely :—

"(3) A firm shall not have any of the names or emblems specified in the Schedule to the Emblems and Names (Prevention of Improper Use) Act, 1950 (XII of 1950), or any colourable imitation thereof, unless permitt-

ed so to do under that Act, or any name which is likely to be associated by the public with the name of any other firm on account of similarity, or any name which, in the opinion of the Registrar, for reasons to be recorded in writing, is undesirable :

Provided that nothing in this sub-section shall apply to any firm registered under any such name before the date of the commencement of the Indian Partnership (Maharashtra Amendment) Act, 1984.

(4) Any person aggrieved by an order of the Registrar under sub-section (3) may, within 30 days from the date of communication of such order, appeal to the officer not below the rank of Deputy Secretary to Government authorised by the State Government in this behalf, in such manner, and on payment of such fee, as may be prescribed. On receipt of any such appeal, the authorised officer shall, after giving an opportunity of being heard to the appellant, decide the appeal, and his decision shall be final."

7. *Amendment of section 59 of Act IX of 1932.*—Section 59 of the principal Act shall be renumbered as sub-section (1) of that section, and—

(a) in sub-section (1) as so renumbered, after the words "file the statement" the words "On the date such entry is recorded and such statement is filed, the firm shall be deemed to be registered" shall be added ;

(b) after sub-section (1) as so renumbered, the following sub-section shall be added, namely :—

"(2) The firm, which is registered, shall use the brackets and word "(Registered)" immediately after its name."

8. *Insertion of section 59A-1 in Act IX of 1932.*—After section 59 of the principal Act, the following section shall be inserted, namely :—

"59A-1. *Late registration on payment of penalty.*—If the statement in respect of any firm is not sent or delivered to the Registrar within the time specified in sub-section (1A) of section 58; then the firm may be registered on payment, to the Registrar, of a penalty of one hundred rupees per year of delay or a part thereof."

9. *Amendment of section 60 of Act IX of 1932.*—In section 60 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) When an alteration is made in the firm name or in the nature of business of a firm or in the location of the principal place of business of a registered firm, a statement shall be sent to the Registrar, within a period of 90 days from the date of making such alteration, accompanied by the prescribed fee, specifying the alteration and signed and verified in the manner required under section 58."

(b) in the marginal note for the words "firm name" and the words "firm name, nature of business and" shall be substituted.

10. *Amendment of section 61 of Act IX of 1932.*—In section 61 of the principal Act, for the words "may send intimation thereof to the Registrar, who shall" the following shall be substituted, namely :—

"shall send intimation thereof to the Registrar, within a period of 90 days from the date of such discontinuance or, as the case may be, from the date on which the firm begins to carry on business at such place. The Registrar shall then".

11. *Amendment of section 62 of Act IX of 1932.*—In section 62 of the principal Act, for the words “may be sent” the words “shall be sent, within a period of 90 days from the date of making such alteration”, shall be substituted.

12. *Amendment of section 63 of Act IX of 1932.*—In section 63 of the principal Act,—

(a) in sub-section (1),—

(i) for the word “any”, wherever it occurs, the word “every” shall be substituted ;

(ii) for the words “may give notice to the Registrar of such change or dissolution, specifying the date thereof ;” the following shall be substituted, namely :—

“shall, within a period of 90 days from the date of such change or dissolution, give notice to the Registrar of such change or dissolution, specifying the date thereof.”

(b) after sub-section (1), the following sub-section shall be added, namely :—

“(1-A) Where a change occurs in the constitution of a registered firm all persons, who after such change are partners of the firm, shall jointly send an intimation of such change duly signed by them, to the Registrar, within a period of 90 days from the date of occurrence of such change and the Registrar shall deal with it in the manner provided by section 61.” ;

(c) in sub-section (2), for the words “may give notice to the Registrar” the words “shall, within a period of 90 days from the date of his election, give notice to the Registrar” shall be substituted.

13. *Amendment of section 69 of Act IX of 1932.*—In section 69 of the principal Act,—

(a) to sub-section (1), the following proviso shall be added, namely :—

“Provided that the requirement of registration of firm under this sub-section shall not apply to the suits or proceedings instituted by the heirs or legal representatives of the deceased partner of a firm for accounts of the firm or to realise the property of the firm.”

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) No suit to enforce any right for the dissolution of a firm or for accounts of a dissolved firm or any right or power to realise the property of a dissolved firm shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm, unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm :

Provided that the requirement of registration of firm under this sub-section shall not apply to the suits or proceedings instituted by the heirs or legal representatives of the deceased partner of a firm for accounts of a dissolved firm or to realise the property of a dissolved firm.” ;

(c) in sub-section (3),—

(i) for the words, brackets and figures “sub-sections (1) and (2)” the words, “brackets, figures and letter “sub-sections (1), (2) and (2A)” shall be substituted ;

(ii) for clause (a), the following clause shall be substituted, namely :—

“(a) the firms constituted for a duration upto six months or with a capital upto two thousand rupees ; or”

14. *Insertion of section 69A in Act IX of 1932.*—After section 69 of the principal Act, the following section shall be inserted, namely :—

“69A. *Penalty for contravention of sections 60, 61, 62 or 63.*—If any statement, intimation or notice under sections 60, 61, 62 or 63 in respect of any registered firm is not sent or given to the Registrar within the period specified in that section, the Registrar may, after giving notice to the partners of the firm and after giving them a reasonable opportunity of being heard, refuse to make suitable amendments in the records relating to the firm, until the partners of the firm pay such penalty, not exceeding ten rupees per day, as the Registrar may determine in respect of the period between the date of expiry of the period specified in sections 60, 61, 62 or as the case may be, 63 and the date of making the amendments in the entries relating to the firm.”

15. *Amendment of section 70 of Act IX of 1932.*—In section 70 of the principal Act, for the words “shall be punishable with imprisonment which may extend to three months, or with fine, or with both” the following shall be substituted, namely :—

“shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with both :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, the fine shall not be less than one thousand rupees.”

16. *Insertion of section 70A in Act IX of 1972.*—After section 70 of the principal Act, the following section shall be inserted, namely :—

“70A. *Maximum fees and power to amend Schedule I.*—(1) The fees payable under this Act and the rules made thereunder shall not exceed the maximum fees as specified in Schedule I.

(2) Subject to the provisions of this section, the State Government may, having regard to the expenditure incurred or to be incurred for carrying out the purposes of this Act, from time to time, by notification in the Official Gazette, vary any of the amounts of maximum fees and other particulars specified in Schedule I, and, thereupon, the said Schedule shall be deemed to be amended accordingly.

(3) Every notification issued under sub-section (2) shall take effect from the date of its publication in the Official Gazette, unless some other date is specified therein for this purpose.

(4) Every notification issued by the State Government under sub-section (2) shall be laid, as soon as may be after it is issued, before each House of the State Legislature, while it is in sessions, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, and notify such decision in the Official Gazette, the notification shall from the date of publication of such decision, have effect only in such modified form or be of no effect as the case may be ; so, however,

that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done in pursuance of that notification."

17. *Amendment of section 71 of Act IX of 1932.*—In section 71 of the principal Act—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Subject to the provisions of section 70A, the State Government may, by notification in the Official Gazette, make rules prescribing the fees which shall accompany documents sent to the Registrar or which shall be paid in respect of any intimation, notice or application given to the Registrar or which shall be payable for the inspection of documents in the custody of the Registrar or for copies from the Registrar or Firms or which shall be paid for supply of any prescribed forms."

(b) in sub-section (2),—

(i) in clause (a), for the words and figures "under section 58", the words, brackets and figures "under sub-section (1) of section 58" shall be substituted ;

(ii) after clause (a), the following clause shall be substituted, namely :—

"(aa) prescribing the manner of filing an appeal under sub-section (4) of section 58 ;"

(c) for sub-section (4), the following sub-section shall be substituted, namely :—

"(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such decision, have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done in pursuance of that rule."

18. *Substitution of Schedule I to Act IX of 1932.*—For Schedule I appended to the principal Act, the following Schedule shall be substituted, namely :—

"SCHEDULE I

Maximum Fees

(See sections 70A and 7F)

Document or act in respect of which the fee is payable	Maximum fee
(1) Statement under section 58 (1)	... Fifty rupees.
(2) Memorandum of appeal under section 58 (4)	... Twenty-five rupees
(3) Statement under section 60	... Fifteen rupees.

Document or act in respect of which the fee is payable	Maximum fee
(4) Intimation under section 61	Fifteen rupees.
(5) Intimation under section 62	Fifteen rupees.
(6) Notice under section 63 (1)	Fifteen rupees.
(7) Intimation under section 63 (1A)	Fifteen rupees.
(8) Notice under section 63 (2)	Fifteen rupees.
(9) Application under section 64	Fifteen rupees.
(10) Inspection of the Registrar of Firms under sub-section (2) of section 66; for the inspection of all documents relating to one firm.	Seven rupees and fifty paise.
(11) Inspection of documents relating to one firm under sub-section (2) of section 66, for the inspection of all documents relating to one firm.	Seven rupees and fifty paise.
(12) Copies from the Registrar of Firms under section 67 for each hundred words or part thereof.	Two rupees.
(13) Price of Forms prescribed under the rules ...	One rupee per Form."

THE MAHARASHTRA (THIRD SUPPLEMENTARY) APPROPRIATION ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the Governor on 23rd November, 1984 and was published in the *Maharashtra Govt. Gazette, (Ext.)*, Part IV, dated 28th November, 1984.

MAHARASHTRA ACT NO. XXX OF 1984

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund for the Services of the year ending on the thirty-first day of March 1985.

Whereas by virtue of article 204 of the Constitution of India, read with article 205 thereof, it is necessary to provide for the passing of an Appropriation Act for the appropriation of further sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March 1985; and for the purpose of authorising payment of the said sums; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Maharashtra (Third Supplementary) Appropriation Act, 1984.

(Text omitted)

THE BOMBAY HOMOEOPATHIC AND BIOCHEMIC PRACTITIONERS' (AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the Governor on 23rd November, 1984 and was published in the *Maharashtra Govt. Gazette, (Ext.)*; Part IV, date November 29, 1984.

MAHARASHTRA ACT NO. XXXI OF 1984

An Act further to amend the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959.

Whereas both Houses of the State Legislature were not in session;

And Whereas the Governor of Maharashtra was satisfied the circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Homoeopathic and Biochemic Practitioner, Act, 1959 (Bom. XII of 1960), for the purpose hereinafter appearing; and, therefore, promulgated the Bombay Homoeopathic and Biochemic Practitioners' (Amendment) Ordinance, 1984, on the 18th October 1984 (Mah. Ord. IX of 1984);

And Whereas, it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the **Bombay Homoeopathic and Biochemic Practitioners' (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 18th October, 1984.

2. *Amendment of section 36 of Bom. XII of 1960.*—In section 36 of the the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 (Bom. XII of 1960), (hereinafter referred to as "the principal Act"), in subsection (1), for the words "three years" the words "four years" shall be substituted.

3. *Repeal of Mah. Ord. IX of 1984 and saving.*—(1) The Bombay Homoeopathic and Biochemic Practitioners' (Amendment) Ordinance, 1984 (Mah. Ord. IX of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any appointment made) under the principal Act, as amended by the said Ordinance shall be deemed to have been done, taken or made, as the case may be, under the principal Act, as amended by this Act.

THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the Governor on 23rd November, 1984 and was published in the *Maharashtra Govt. Gazette, (Ext.)*, Part IV, dated November 29, 1984.

MAHARASHTRA ACT NO. XXXII OF 1984

An Act further to amend the Bombay Provincial Municipal Corporations Act, 1949.

Whereas both Houses of the State Legislature were not in session;

And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), for the purpose hereinafter appearing; and, therefore, promulgated the Bombay Provincial Municipal Corporations (Amendment) Ordinance, 1984 (Mah. Ord. VI of 1984), on the 5th September 1984;

And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-fifth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the **Bombay Provincial Municipal Corporations (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 5th September 1984.

2. *Amendment of Section 5 of Bom. LIX of 1949.*—In section 5 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), (hereinafter referred to as "the principal Act"), in sub-section (2), for the words and brackets "number of councillors (not exceeding seventy-five)" the words and brackets "number of councillors (not exceeding one hundred)" shall be substituted.

3. *Repeal of Mah. Ord. VI of 1984 and saving.*—(1) The Bombay Provincial Municipal Corporations (Amendment) Ordinance, (Mah. Ord. VI of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the principal Act, as amended by this Act.

THE MAHARASHTRA AGRICULTURAL PRODUCE MARKETING (REGULATION) (SECOND AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the Governor on 23rd November, 1984 and was published in the *Maharashtra Govt. Gazette, (Ext.)*, Part IV, dated November 30, 1984.

MAHARASHTRA ACT NO. XXXIV OF 1984

An Act further to amend the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963.

And Whereas, both Houses of the State Legislature were not in session;

Whereas, the Governor of Maharashtra, was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Mah. XX of 1964), for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Agricultural Produce Marketing (Regulation) (Second Amendment) Ordinance, 1984 (Mah. Ord. X of 1984), on the 22nd October 1984.

And Whereas, it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the *Maharashtra Agricultural Produce Marketing (Regulation) (Second Amendment) Act, 1984.*

(2) It shall be deemed to have come into force on 22nd October, 1984.

2. *Amendment of section 13 of Mah. XX of 1964.*—In section 13 of Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Mah. XX of 1964), (hereinafter referred to as "the principal Act"), in sub-section (1A),—

(a) in clause (a),—

(i) for the words "twenty-eight members" the words "nineteen members" shall be substituted;

(ii) in sub-clause (i), for the words "three such members" the words "two such members" shall be substituted ;

(iii) for sub-clause (ii), the following sub-clause shall be substituted, namely :—

"(ii) two representatives elected by the traders and commission agents, holding licences to operate as such in the Bombay market area ;";

(iv) for sub-clause (iii), the following sub-clause shall be substituted, namely :—

"(iii) one representative of the Maharashtra State Agricultural Marketing Board ;";

(v) for sub-clause (iv), the following sub-clause shall be substituted, namely :—

"(iv) one representative of the Municipal Corporation of Greater Bombay ;";

(vi) for sub-clause (vii), the following sub-clause shall be substituted, namely :—

"(vii) the Director of Agricultural Marketing, Maharashtra State Pune, or his representative ;";

(vii) sub-clause (viii) and (ix) shall be deleted :

(b) in clause (b), for the words, brackets and figures "paragraph (v), (vi), (vii) or (ix)" the words, brackets and figure "sub-clause (v), (vi) or (vii)" shall be substituted.

3. *Repeal of Mah. Ord. X of 1984 and saving.*—(1) The Maharashtra Agricultural Produce Marketing (Regulation) (Second Amendment) Ordinance, 1984 (Mah. Ord. X of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be, under the principal Act, as amended by this Act.

THE MAHARASHTRA RAW COTTON (PROCUREMENT PROCESSING AND MARKETING) (RETROSPECTIVE EXTENSION OF DURATION) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the President on 20th December, 1984 and was published in the *Maharashtra Govt. Gazette*, (Ext.), Part IV, dated December 27, 1984.

MAHARASHTRA ACT NO. XXXV OF 1984

An Act to extend the duration of the Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act, 1971, with retrospective effect.

Whereas both Houses of the State Legislature were not in session ;

And Whereas the Governor of Maharashtra was satisfied that circumstance existed which rendered it necessary for him to take immediate action to extend the duration of the Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act, 1971 (Mah. XLVII of 1971), with retrospective effect, for the purposes hereinafter appearing ; and therefore, promulgated the Maharashtra Raw Cotton (Procurement, Processing and Marketing) (Retrospective Extension of Duration) Ordinance, 1984 (Mah. Ord. VII of 1984) ; on the 8th September 1984 ;

And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Thirty-fifth Year of the

Republic of India, as follows, namely :—

1. *Short title and commencement*—(1) This Act may be called the **Maharashtra Raw Cotton (Procurement, Processing and Marketing) Retrospective Extension of Duration) Act, 1984.**

(2) It shall be deemed to have come into force on the 30th June, 1984.

2. *Amendment of section 1 of Mah. XLVII of 1971.*—In section 1 of the Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act, 1971 (Mah. XLVII of 1971), (hereinafter referred to as "the principal Act"), in sub-section (4), for figures "1984" the figures "1986" shall be substituted.

3. *Savings.*—Nothing in this Act shall render any person liable to be convicted of any offence in respect of anything done by him or anything omitted to be done by him, before the 8th September 1984, if such act or omission was not an offence but for the retrospective extension of duration of the principal Act by this Act.

4. *Removal of doubt*—For the removal of doubt, it is hereby declared that the principal Act, which was to expire after the 30th June, 1984, having been retrospectively extended from that date upto and inclusive of the 30th June 1986, by this Act, it shall not be deemed ever to have expired at any time and all its provisions as amended by this Act shall, subject to the provisions of section 3 of this Act, be deemed to be continuously in force.

5. *Repeal of Mah. Ord VII of 1984 and saving.*—(1) The Maharashtra Raw Cotton (Procurement, Processing and Marketing) (Retrospective Extension of Duration) Ordinance, 1984 (Mah. Ord. VII of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be under the principal Act, as amended by this Act.

THE SHIVRAJ FINE ART LITHO WORKS (ACQUISITION AND TRANSFER OF UNDERTAKING) ACT, 1984

The following Act of the Maharashtra Legislature having been assented to by the President on the 21st December, 1984 was published in the *Maharashtra Govt. Gazette, (Ext.)*, Part IV, dated December 21, 1984.

MAHARASHTRA ACT NO. XXXVI OF 1984

An Act to provide for the acquisition and transfer of the undertaking of the Shivraj Fine Art Litho Works, Nagpur, with a view to securing the proper management of such undertaking so as to subserve the interests of the general public and the employees of the undertaking by ensuring the continued manufacture production and distribution of printed lithographic material which are essential to the needs of the economy of the State and country and for the matters connected therewith or incidental thereto.

(Text omitted)

THE BOMBAY ELECTRICITY DUTY (AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the Governor on 23rd November, 1984 and was published in the *Maha-*

ashtra Govt. Gazette, (Ext.), Part II, dated November 30, 1984.

MAHARASHTRA ACT NO. XXXIII OF 1984

An Act further to amend the Bombay Electricity Duty Act, 1958.

Whereas both Houses of the State Legislature were not in session ;
And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Electricity Duty Act, 1958 (Bom. XL of 1958), for the purposes hereinafter appearing ; and, therefore, promulgated the the Bombay Electricity Duty (Amendment) Ordinance, 1984 (Mah. Ord. VIII of 1984) on the 24th September, 1984 ;

And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Bombay Electricity Duty (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 1st day of October, 1984.

2. *Amendment of section 3 of Bom. XL of 1958.*—In section 3 of the Bombay Electricity Duty Act, 1958 (Bom. XL of 1958) (hereinafter a referred as "the principal Act"), in sub-section (2), in clause (a), in sub-clause (vii), for the words "the Kolaba and Ratnagiri districts" the words "the Raigad, Ratnagiri and Sindhudurg districts" shall be substituted.

3. *Amendment of section 7 of Bom. XL of 1958.*—In section 7 of the principal Act, in sub-section (2), for the words and figures "the Code of Criminal Procedure, 1898 (V of 1898)", the words and figures "the Code of Criminal Procedure, 1973 (II of 1974)", shall be substituted.

4. *Amendment of Schedule to Bom. XL of 1958.*—In the Schedule to the principal Act,—

(1) in Part A,—

(a) in clause (a),—

(i) for the figure and word "6 paise" the figures and word "8½ paise" shall be substituted.

(ii) for the figures and word "5 paise" the figures and word "7½ paise" shall be substituted.

(b) in clause (b), for the figure and word "8 paise" the figures and word "10½ paise" shall be substituted.

(c) in clause (c), for the figures and word "10 paise" the figures and word "12½ paise" shall be substituted.

(d) in clause (d), for the figures and word "6 paise" the figures and word "8½" shall be substituted.

(2) In Part B,—

(A) in clause 1,—

(a) in sub-clause (i),—

(i) in paragraph (a), for the figures and letter "20 P." the figures and word "22½ paise" shall be substituted.

(ii) in paragraph (b), for the figures and letter "16 P." the figures and word "18½ paise" shall be substituted.

(b) in clause (ii), for the figures and letter "15 P." the figures and word "17½ paise" shall be substituted.

(c) in sub-clause (iii),—

(i) for the words, brackets and figures “the Bombay Electricity Duty (Amendment) Act, 1973 (Mah. XVIII of 1973)” the words, brackets and figures “the Bombay Electricity Duty (Amendment) Act, 1984” (Mah. XXXIII of 1984) shall be substituted ;

(ii) in paragraph (a), for the figures and letter “30 P.” the figures and word “32½ paise” shall be substituted ;

(iii) in paragraph (b), for the figures and letter “40 P.” the figures and word “42½ paise” shall be substituted ;

(B) after clause 1, the following clause shall be inserted, namely :—

“1A. For the removal of doubt it, is hereby declared that sub-clauses (i) and (ii) of clause 1 shall apply to permanent supply for exhibitions or entertainments for private gain, or for social functions, by reason of the premises being used for commercial purposes.”;

(3) in Part C, for the figure and letter “5 P.” the figures and word “7½ paise” shall be substituted ;

(4) in Part D, for the figures and letter “30 P.” the figures and word “32½ paise” shall be substituted ;

(5) Part E shall be deleted ;

(6) in Part G,—

(i) in clause (1),—

(a) in sub-clause (i),—

(i) in paragraph (a), for the figures and word “½ paise” the figure and word “3 paise” shall be substituted ;

(ii) in paragraph (b), for the figure and words “3 paise” the figures and word “5½ paise” shall be substituted ;

(b) in sub-clause (ii),—

(i) in paragraph (x),—

(a) in sub-paragraph (A), for the word “Nil” the figures and words “2½ paise per unit” shall be substituted ;

(b) in sub-paragraph (B), for the figures and word “2½ paise” the figure and word “5 paise” shall be substituted ;

(2) in paragraph (y), for the figures and word “½ paise” the figures and word “2½ paise” shall be substituted ;

(3) in paragraph (z), for the figures and word “2½ paise” the figures and word “5½ paise” shall be substituted ;

(II) in clause (2), for the figure and word “5 paise” the figures and word “7½ paise” shall be substituted ;

(7) in Part H. in clause (b),—

(i) in sub-clause (i), for the figure and letter “3 P.” the figures and word “5½ paise” shall be substituted ;

(ii) in sub-clause (ii), for the figure and letter “5 P.” the figures and word “7½ paise” shall be substituted.

5. *Repeal of Mah. Ord. VIII of 1984 and saving.*—(1) The Bombay Electricity Duty (Amendment) Ordinance, 1984 (Mah. Ord. VIII of 1984), is hereby repeal.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be, under the principal Act, as amended by this Act.

THE BOMBAY MUNICIPAL CORPORATION, BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS CITY OF NAGPUR CORPORATION AND MAHARASHTRA MUNICIPALITIES (AMENDMENT) ORDINANCE, 1985

Published in the *Maharashtra Govt. Gazette, (Ext.)*, Part IV, dated February 11, 1985

MAHARASHTRA ORDINANCE NO. 1 OF 1985.

An Ordinance to provide for postponement of elections to certain Municipal Corporations and Municipal Councils and further to amend the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipalities Act, 1965.

Whereas, by Government Order, Urban Development Department, No. F.N.C. 1214/CR/10/TU-2, dated 31st March 1984 issued under sub-section (1) of section 7A of the Bombay Municipal Corporation Act, (Bom. III of 1838), Administrator is appointed to manage the affairs of the Corporation ;

And Whereas, by virtue of the provisions of clause (b) of sub-section (1) of the said section 7A, general ward elections of the Councillors are to be held within a period of one year ;

And Whereas, by virtue of the provisions of section 22, the general ward elections of Councillors are, therefore, required to be held on such dates in the months of January to March 1985 as the Administrator thinks fit, and that the results of such elections are to be declared before the end of March 1985 ;

And Whereas, under clause (b) of sub-section (1) of section 7A, the term of office of Administrator would expire at noon on the first day of April of the year in which the general ward elections of Councillors are held ;

And Whereas, Administrators have also been appointed to manage the affairs, of the Corporation of the City of Solapur constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), of the City of Nagpur Corporation under the provisions of the City of Nagpur Corporation Act, 1948 (C. P. and Berar II of 1950) and of all the Municipal Councils constituted under the Maharashtra Municipalities Act, 1965 (Mah. XL of 1965) ;

And Whereas, the period before which general ward election to the said Corporations and the Councils should be held, is due to expire before the middle of April 1985 ;

And Whereas, in view of the general elections to the Maharashtra State Legislative Assembly, which are to be held in March 1985, it will not be possible to hold general ward elections to all these Corporations and Councils and declare the results of such elections, in the case of the Municipal Corporation of Greater Bombay, before the 31st day of March 1985 and, in the case of the other Corporations and the Councils, before the middle of April 1985 ;

And Whereas, Government have, therefore, decided to hold the general ward elections to all these Corporations and Councils in April 1985 ;

And Whereas, as a result of this decision, it is expedient further to amend all the aforesaid four Acts to take power to the State Government to

extend the period for holding general ward elections to all these Corporations and Councils by a further period of one month and to provide for other consequential and incidental matters ;

And Whereas, both Houses of the State Legislature are not in session;

And Whereas, the Governor of Maharashtra is satisfied that circumstances exist, which render it necessary for him to take immediate action further to amend the aforesaid four Acts for the purposes hereinafter appearing ;

Now Therefore, in exercise of the powers conferred by clause (1) of Article 213 of Constitution of India, the Governor of Maharashtra, is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1)—This Ordinance may be called the **Bombay Municipal Corporation, Bombay Provincial Municipal Corporations, City of Nagpur Corporation and Maharashtra Municipalities (Amendment) Ordinance, 1985.**

(2) It shall come into force at once.

2. *Amendment of section 7A of Bom. III of 1888.*—In section 7A of the Bombay Municipal Corporation Act (Bom. III of 1888) (hereinafter referred to as “the principal Act”), in sub-section (1), to clause (b), the following proviso shall be added, namely :—

“Provided that this period of one year may be extended, from time to time, by the State Government, in exceptional circumstances, to a period not exceeding one year and one month in the aggregate, by notification in the Official Gazette, for reasons, which shall be stated in the notification :

Provided further that, where the State Government extends any period under the first proviso, the Administrator shall continue to manage the affairs of the Corporation upto noon on day of the first meeting of the Councillors elected at the general ward elections held during the period so extended.”.

3. *Amendment of section 22 of Bom. III of 1888.*—In section 22 of the principal Act, in sub-section (1), for the first proviso, the following proviso shall be substituted, namely :—

“Provided that, the first general ward elections after the promulgation of the Bombay Municipal Corporation, Bombay Provincial Municipal Corporations, City of Nagpur Corporation and Maharashtra Municipalities (Amendment) Ordinance, 1985 (Mah. Ord. 1 of 1985), shall be fixed by the Administrator on such days as he thinks fit, in the months of February to April 1985 and the result of such elections, as far as practicable, be declared before the end of April 1985 ;”.

4. *Consequences of extension of the period of Administrator and fixation of day for retirement of the Councillors.*—As a result of the extension of the period during which the Administrator appointed under clause (b) of sub-section (1) of section 7A shall continue to hold office and the holding of the general ward elections during the period so extended and the result of such general elections being declared on a day after the 31st day of March 1985

the following consequences shall ensue, and the provisions of the principal Act, in so far as they relate to the matters hereinafter specified in this section, shall be deemed to have been amended accordingly—

(i) All Councillors who are elected at the general ward elections referred to in the first proviso to section 22 shall be deemed to have come in to office on the day of their first meeting referred to in the second proviso to clause (b) of sub-section (1) of section 7A and such Councillors and all Councillors who will be elected to fill casual vacancies of such Councillors thereafter, shall, notwithstanding anything contained in sections 7 and 9 of the principal Act, retire from office at noon on the first day of April 1990.

(ii) The Councillors shall at their first meeting held after such general elections, appoint one of their own number to be Mayor until the first meeting of the Corporation in the official year commencing on the first day of April 1986.

(iii) The members of the Standing Committee, the Improvements Committee, the Bombay Electric Supply and Transport Committee, the Education Committee and other Committees shall be appointed at the first meeting of the Councillors after such general elections, or as soon as possible thereafter.

(iv) The Standing Committee, the Improvements Committee, the Bombay Electric Supply and Transport Committee and the Education Committee appointed under clause (iii) shall, each at their first meeting, appoint one of their own number to be its Chairman, until the first meeting of such Committee in April 1986.

(v) One-half of the members of the Standing Committee and the Improvements Committee appointed under clause (iii) shall retire at noon on the first day of April 1986. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1986 and in such manner as the Chairman of the concerned Committee may determine.

(vi) One-half of the members of the Bombay Electric Supply and Transport Committee appointed under clause (iii) shall retire on the first day of April 1987. The members who shall so retire shall be selected by such lot at time previous to the first day of March 1987 and in such manner as the Chairman of that Committee may determine.

(vii) One-half of the Councillor members and one-half of the other members of the Education Committee appointed under clause (iii) shall retire at noon on the first day of April 1986. The members who shall so retire shall be selected by lot at such time previous to the first day of March 1986 and in such manner as the Chairman of that Committee may determine.

5. *Application of principal Act.*—Except as otherwise provided by or under this Ordinance, the provisions of the principal Act shall apply *mutatis mutandis* in respect of any matter contained in this Ordinance or any matter connected therewith.

6. *Amendment of section 7-A1 of Bom. LIX of 1949.*—In section 7-A1 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), proviso to clause (b), for the words “four years and two months” the words “four years and three months” shall be substituted.

7. *Amendment of section 22A of C. P. and Berar II of 1950.*—In section 22A of the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950)

in sub-section (1), in the proviso to clause (b), for the words "four years and two months" the words "four years and three months" shall be substituted

8. *Amendment of section 48A of Mah. XL of 1965.*—In section 48A of the Maharashtra Municipalities Act, 1965 (Mah. XL of 1965), in sub-section (1), in the proviso to clause (b), for the words "four years and two months" the words "four years and three months" shall be substituted.

9. *Removal of difficulty.*—If any difficulty arises in giving effect to the provisions of any of these Acts, as amended by this Ordinance, or by reason of anything contained therein, or giving effect to any of these Acts in respect of the matters contained in this Ordinance, the State Government may, as occasion arises, by order, do anything which appears to be necessary for the purpose of removing the difficulty.

STATEMENT

Under the relevant provisions of the Bombay Municipal Corporation Act (Bom. III of 1888), the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948, and the Maharashtra Municipalities Act, 1965, the Administrators have been appointed to manage the affairs of the Municipal Corporation of Greater Bombay, the Corporation of the City of Solapur, the City of Nagpur Corporation and all the Municipal Councils. In view of the provisions of the Bombay Municipal Corporation Act, the general ward elections of Councillors are to be held and the results of such elections are to be declared before the 31st March, 1985. Under the provisions of other Corporations Acts and the Maharashtra Municipalities Act, the general ward elections to all the other Corporations and Councils are to be held and the results of such elections are to be declared before the middle of April, 1985. However, in view of the general elections to the Maharashtra State Legislative Assembly, which are to be held in March, 1985, it will not be possible to hold general ward elections to all these Corporations and Councils and declare the results of such elections before the 31st day of March, 1985, or as the case may be, before the middle of April, 1985.

2. Government have, therefore, decided to hold the general elections to all these Corporations and Councils in April, 1985. In view of this decision it is expedient further to amend immediately all the aforesaid four Acts to take power to the State Government to extend the period for holding general ward elections to all these Corporations and councils by a further period of one month and to provide for other consequential and incidental matters.

3. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that immediate action is required to be taken to postpone the holding of general ward elections by a further period of one month and for that purpose further to amend the above mentioned four Acts, this Ordinance is promulgated.

IDRIS H. LATIF,

Bombay, dated the 9th February, 1985.

Governor of Maharashtra.

THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT (AMENDMENT) ORDINANCE, 1985

Published in the *Maharashtra Government Gazette*, (Ext.), Part IV,
dated February 13, 1985.

MAHARASHTRA ORDINANCE NO. 11 OF 1985

An Ordinance further to amend the Maharashtra Housing and Area Development Act, 1976.

Whereas both Houses of the State Legislature are not in session ;

And whereas the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Housing and Area Development Act, 1976 (Mah XXVIII of 1977), for the purposes hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

1 *Short title and commencement.*—(1) This Ordinance may be called the **Maharashtra Housing and Area Development (Amendment) Ordinance, 1985.**

(2) It shall come into force at once.

2. *Amendment of section 28 of Mah. XXVII of 1977.*—In section 28 of the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), (hereinafter referred to as “the principal Act”), in sub-section (1), for clause (h), the following clause shall be substituted, namely :—

“(h) to advance loans in accordance with the provisions of Chapter X ;”.

3. *Amendment of heading of Chapter X of Mah XXVIII of 1977*—For the heading of Chapter X of the principal Act, the following heading shall be substituted, namely :—

“ADVANCES OF LOANS FOR PURPOSES OF PURCHASE OF ANY LAND DEVELOPED OR OF BUILDING OR TENEMENT THEREIN-CONSTRUCTED, BY AUTHORITY OR OF CONSTRUCTION OF HOUSES ON SUCH LAND”.

4. *Amendment of section 160 of Mah. XXVIII of 1977.*—In section 160 of the principal Act,—

(a) for the words “construction of houses on lands developed by it” the following shall be substituted, namely :—

“purchase of any land developed by the Authority, or of purchase, on such terms as the Authority may, with the approval of the State Government, determine, of any building or tenement therein constructed by the Authority, or of construction of houses on land developed by the Authority or of improvement, renovation or carrying out any extension to any house or hut constructed on any authority premises.” ;

(b) in clause (v), for the words “the factories, the words “the factories ; or” shall be substituted ;

(c) after clause (v), the following clause shall be added, namely :—

“(vi) any individual”.

STATEMENT

The provisions of section 28(1) (h) and Chapter X of the Maharashtra Housing and Area Development Act, 1976 do not permit the Maharashtra Housing and Area Development Authority to give loans to individual persons for construction of a house and on the land developed by the Authority, or to improve, renovate or make any extension to the houses or huts constructed by them on such premises. In order to enable the persons belonging especially to the economically weaker sections of the community to construct their own houses on the lands developed by the Authority or to

improve, renovate or carry out any extension of their own houses or huts constructed on the Authority premises and to enable them thereby to lead a more hygienic life, it is considered necessary to empower the Authority to advance loans to individual persons also for such purpose, and for that purpose to amend immediately sections 28 and 160 of the Act suitably.

2. As both Houses of the State Legislature are not in session and it is necessary to take immediate action further to amend the Act suitably for the purposes aforesaid, this Ordinance is promulgated.

IDRIS H. LATIF,

Dated the 11th February, 1985

Governor of Maharashtra.

THE MAHARASHTRA OWNERSHIP FLATS (REGULATION OF THE PROMOTION, SALE, MANAGEMENT AND TRANSFER) (EXTENSION OF DURATION) ORDINANCE, 1985

Published in the *Maharashtra Govt. Gazette, (Ext.)*, Part IV, dated February 20, 1985

MAHARASHTRA ORDINANCE NO. III OF 1985

An Ordinance to extend the duration of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

Whereas both Houses of the State Legislature are not in session ;

And Whereas the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to extend the duration of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (Mah. XLV of 1963) ;

And Whereas the instructions from the President under the proviso to clause (1) of Article 213 of the Constitution have been obtained ;

Now, Therefore, in exercise of the powers conferred upon him by clause (1) of Article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

1. *Short title.*—This Ordinance may be called the **Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Extension of Duration) Ordinance, 1985.**

2. *Amendment of section 1 of Mah. XLV of 1963.*—In section 1 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (Mah. XLV of 1963), in sub-section (4), for the figures "1985" the figures "1990" shall be substituted.

STATEMENT

The Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (Mah. XLV of 1963) is enacted with a view to checking the malpractices in the business of construction, sale, management and transfer of flats taken on ownership basis and to safeguard the legitimate rights and interests of the flat-purchasers. This Act is in force in Greater Bombay and Pune Municipal areas, the area of Thane Municipal Council (now included in the areas of the Municipal Corporation of the City of Thane), Pune and Kirkee Cantonments, Bhayandar, Palghar and Dahanu villages in Thane District, the areas of the Muni-

pal Councils of Dombivli, Ambarnath and Kalyan (now included in the area of the Municipal Corporation of the City of Kalyan), Ulhasnagar Municipal Council and peripheral area of 34 kilometres of the Pune City. The Act is a temporary Act and, because of its usefulness its duration has been extended, from time to time, and is now due to expire on 31st March 1985.

2. Some proposals are separately under consideration of the Government to make substantial amendments to the Act with a view to making the provision of the Act more effective. It is proposed to bring a separate Amendment Bill for that purpose, after the proposals are finalised in due course. As it is likely to take some time, it is proposed to extend, in the meanwhile, the duration of the existing provisions of the Act for a further period of five years upto and inclusive of the 31st March 1990.

3. A Bill, namely, the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Extension of Duration) Bill, 1984 (L. C. Bill No. XVII of 1984) prepared for this purpose was introduced in the Maharashtra Legislative Council on the 13th November 1984 but could not be passed by the Maharashtra Legislative Council for want of sufficient time as the session was prorogued on the 17th November 1984.

4. As both Houses of the State Legislature are not in session and it is necessary to take immediate action to extend the duration of the Act, this Ordinance is promulgated.

IDRIS H. LATIF,

Dated the 19th February 1985.

Governor of Maharashtra.

THE MAHARASHTRA (SUPPLEMENTARY) APPROPRIATION ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the Governor was published in the *Maharashtra Govt. Gazette*, Part IV dated April 4, 1985.

MAHARASHTRA ACT NO. 1 OF 1985.

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the services of the year ending on the thirty-first day of March 1985

Whereas by virtue of article 204 of the Constitution of India, read with article 205 thereof, it is necessary to provide for the passing of an Appropriation Act for the appropriation of further sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March 1985 ; and for the purpose of authorising payment of the said sums ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Maharashtra (Supplementary) Appropriation Act, 1985.

(Text omitted)

THE MAHARASHTRA APPROPRIATION (VOTE ON ACCOUNT) ACT, 1984

The following Act of the Maharashtra Legislature having been assented to by the Governor, was published in the *Maharashtra Govt. Gazette*, Part IV, dated April 4, 1985

MAHARASHTRA ACT NO. II OF 1985

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State for the services of a part of the financial year 1985-86.

Whereas it is expedient to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State for the services of a part of the financial year 1985-86; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Maharashtra Appropriation (Vote on Account) Act, 1985.**

(Text of the Act omitted)

THE BOMBAY MUNICIPAL CORPORATION, BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS, CITY OF NAGPUR CORPORATION AND MAHARASHTRA MUNICIPALITIES (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature having been assented to by the Governor on the 2nd April, 1985, was published in the *Maharashtra Govt. Gazette*, Part IV, dated April 11, 1984

MAHARASHTRA ACT NO. III OF 1985

An Act to provide for postponement of elections to certain Municipal Corporations and Municipal Councils and further to amend the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949 the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipalities Act, 1965.

Whereas, by Government Order, Urban Development Department, No. BMC 1284/CR/16/UD-2, dated the 31st March, 1984, issued under sub-section (1) of section 7A of the Bombay Municipal Corporation Act, (Bom III of 1888) an Administrator was appointed to manage the affairs of the Corporation ;

And Whereas, by virtue of the provisions of clause (b) of section (1) of the said section 7A, general ward elections of the Councillors were to be held within a period of one year ;

And Whereas, by virtue of the provisions of section 22, the general ward elections of councillors were, therefore, required to be held on such dates in the months of January to March, 1985 as the Administrator thought fit, and that the results of such elections were to be declared before the end of March 1985 ;

And Whereas, under clause (b) of sub-section (1) of section 7A, the term of office of the Administrator would have expired at noon on the first day of April of the year in which the general ward elections of Councillors would have been held ;

And Whereas, Administrator had also been appointed to manage the affairs of the Corporation of the City of Solapur constituted under the

Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), of the City of Nagpur Corporation under the provisions of the City of Nagpur Corporation Act, 1948 (C. P. and Berar II of 1950) and of all the Municipal Councils constituted under the Maharashtra Municipalities Act, 1965 (Mah. XL of 1965) ;

And Whereas, the period before which general ward elections to the said Corporations and the Councils were to be held, was due to expire before the Middle of April, 1985 ;

And Whereas, in view of the general elections to the Maharashtra State Legislative Assembly, which were scheduled to be held in March, 1985, it was not possible to hold general ward elections to all these Corporations and councils and declare the results of such elections, in the case of the Municipal Corporation of Greater Bombay, before the 31st day of March 1985 and, in the case of the other Corporations and the Councils, before the middle of April 1985 ;

And Whereas, Government had, therefore, decided to hold the general ward elections to all these Corporations and Councils in April, 1985 ;

And Whereas, as a result of this decision, it was expedient further to amend all the aforesaid four Acts to take power to the State Government to extend the period for holding general ward elections to all these Corporations and Councils by a further period of one month and to provide for another consequential and incidental matters ;

And Whereas, both Houses of State Legislature were not in session ;

And Whereas, the Governor of Maharashtra was satisfied that circumstances existed, which rendered it necessary for him to take immediate action further to amend the aforesaid four Acts, for the purposes hereinafter appearing ; and, therefore, promulgated the Bombay Municipal Corporation, Bombay Provincial Municipal Corporations, City of Nagpur Corporation and Maharashtra Municipalities (Amendment) Ordinance, 1985, on the 11th February, 1985 (Mah. Ord. 1 of 1985).

And Whereas, it is expedient to replace the said Ordinance by an Act of the Legislature ; It is hereby enacted in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Bombay Municipal Corporation, Bombay Provincial Municipal Corporations, City of Nagpur Corporation and Maharashtra Municipalities (Amendment) Act, 1985.**

(2) It shall be deemed to have come into force on the 11th February, 1985.

2. *Amendment of section 7A of Bom. III of 1888*—In section 7A of the Bombay Municipal Corporation Act, (Bom. III of 1888) (hereinafter referred to as “the principal Act”), in sub-section (1), to clause (b), the following provisos shall be added, namely :—

“Provided that this period of one year may be extended, from time to time, by the State Government, in exceptional circumstances, to a period not exceeding one year and one month in the aggregate, by notification in the Official Gazette, for reasons, which shall be stated in the notifications :

Provided further that, where the State Government extends any period under the first proviso, the Administrator shall continue to manage the affairs of the Corporation upto noon on the day of the first meeting of the Councilors elected at the general ward elections held during the period so extended.”

3. *Amendment of section 22 of Bom III of 1888.*—In section 22 of the principal Act, in sub-section (1), for the first proviso, following proviso shall be substituted, namely :—

“Provided that, the first general ward elections after the commencement of the Bombay Municipal Corporation, Bombay Provincial Municipal Corporations, City of Nagpur Corporation and Maharashtra Municipalities (Amendment) Act, 1985 (Mah. III of 1985), shall be fixed by the Administrator on such days as he may think fit, in the months of February to April, 1985 and the result of such elections, as far as practicable be declared before the end of April, 1985 ;”.

4. *Consequences of extension of the period of Administrator and fixation of day for retirement of the Councillors.*—As a result of the extension of the period during which the Administrator appointed under clause (b) of sub-section (1) of section 7A shall continue to hold office and the holding of the general ward elections during the period so extended and the result of such general elections being declared on a day after the 31st day of March 1985, the following consequences shall ensue, and the provisions of the principal Act, in so far as they relate to the matters hereinafter specified in this section, shall be deemed to have been amended accordingly—

(i) All Councillors who are elected at the general ward elections referred to in the first proviso to section 22 shall be deemed to have come into office on the day of their first meeting referred to in the second proviso to clause (b) of sub-section (1) of section 7A and such Councillors and all Councillors who will be elected to fill casual vacancies of such Councillors thereafter, shall notwithstanding anything contained in sections 7 and 9 of the principal Act, retire from office at noon on the first day of April, 1990

(ii) The councillors shall at their first meeting held after such general elections, appoint one of their own number to be Mayor until the first meeting of the Corporation in the official year commencing on the first day of April, 1986.

(iii) The member of the Standing Committee, the improvements Committee, the Bombay Electric Supply and Transport Committee, the Education Committee, and other Committees shall be appointed at the first meeting of the Councillors after such general elections, or as soon as possible thereafter.

(iv) The Standing Committee, the Improvement Committee, the Bombay Electric Supply and Transport Committee and the Education Committee appointed under clause (iii) shall, each at the first meeting, appoint one of their own number to be its Chairman, until the first meeting of such Committee in April, 1986.

(v) One-half of the members of the Standing Committee and the Improvements Committee appointed under clause (iii) shall retire at noon on the first day of April 1986. The members who shall retire shall be selected by lot at such time previous to the first day of March 1986 and in such manner as the Chairman of that Committee may determine.

(vi) One-half of the members of the Bombay Electric Supply and Transport Committee appointed under clause (iii) shall retire on the first

day of April 1987. The member who shall so retire shall be selected by lot at such time previous to the first day of March 1987 and in such manner as the Chairman of that Committee may determine.

(vii) One-half of the Councillor members and one half of the other members of the Education Committee appointed under clause (iii) shall retire at noon on the first day of April 1986. The member who shall so retire shall be selected by lot at such time previous to the first day of March 1986 and in such manner as the Chairman of that Committee may determine.

5. *Application of principal Act.*—Except as otherwise provided by or under this Act, the provisions of the principal Act shall apply *mutatis mutandis* in respect of any matter contained in this Act or any matter connected therewith.

6. *Amendment of section 7-A1 of Bom. LIX of 1949*—In section 7-A1 of the Bombay Provincial Municipal Corporation Act, 1949 (Bom. LIX of 1949), in sub-section (1), in the proviso to clause (b), for the words “four years and two months” the words “four years and three months” shall be substituted.

7. *Amendment of section 22A of C. P. and Berar II of 1950.*—In section 22A of the City of Nagpur Corporation Act, 1948 (C. P. and Berar II of 1950); in sub-section (1), in the proviso to clause (b), for the words “four years and two months” the words “four years and three months” shall be substituted.

8. *Amendment of section 48A of Mah. XL of 1965.*—In section 48A of the Maharashtra Municipalities Act, 1965 (Mah. XL of 1965), in sub-section (1), in the proviso to clause (b), for the words “four years and two months” the words “four years and three months” shall be substituted.

9. *Removal of difficulty.*—If any difficulty arises in giving effect to the provisions of any of these Acts, as amended by this Act, or by reason of anything contained therein, or in giving effect to any of these Acts in respect of the matters contained in this Act, the State Government may, as occasion arises, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty.

10. *Repeal of Mah. Ord. I of 1985 and savings.*—(1) The Bombay Municipal Corporation, Bombay Provincial Municipal Corporations, City of Nagpur Corporation and Maharashtra Municipalities (Amendment) Ordinance, 1985 (Mah. Ord. I of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) as the case may be, under the principal Acts, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the principal Acts as amended by this Act.

THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 2nd April, 1985, was published in the *Maharashtra Govt. Gazette*, Part IV, dated April, 1985.

MAHARASHTRA ACT NO. IV OF 1985

An Act to amend the Maharashtra Housing and Area Development Act, 1976.

Whereas, both Houses of the State Legislature were not in session ;

And Whereas, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Housing and Area Development (Amendment) Ordinance, 1985 (Mah. Ord. II of 1985) on the 13th February 1985;

And Whereas, it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-sixth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Maharashtra Housing and Area Development (Amendment), 1985.

(2) It shall be deemed to have come into force on the 13th day of February, 1985.

2. *Amendment of section 28 of Mah. XXVIII of 1977.*—In section 28 of the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977) (hereinafter referred to as “the principal Act”), in sub-section (1), for clause (h) the following clause shall be substituted, namely:—

“(h) to advance loans in accordance with the provisions of Chapter X;”

3. *Amendment of heading of Chapter X of Mah. XXVIII of 1977.*—For the heading of Chapter X of the principal Act, the following heading shall be substituted, namely:—

“ADVANCES OF LOANS FOR PURPOSES OF PURCHASE OF ANY LAND DEVELOPED, OR OF BUILDING OR TENEMENT THEREIN CONSTRUCTED BY AUTHORITY OR, OF CONSTRUCTION OF HOUSES ON SUCH LAND.”

4. *Amendment of section 160 of Mah. XXVIII of 1977.*—In section 160 of the principal Act,—

(a) for the words “construction of houses on lands developed by it” the following shall be substituted, namely:—

“purchase of any land developed by the Authority, or of purchase, on such terms as the Authority may, with the approval of the State Government, determine, of any building or tenement therein constructed by the Authority, or of construction of houses on land developed by the Authority, or of improvement, renovation or carrying out any extension to any house or hut constructed on any Authority premises;”

(b) in clause (v), for the words “the factories” the words “the factories; or” shall be substituted;

(c) after clause (v), the following clause shall be added, namely:—

“(iv) any individual.”

5. *Repeal of Mah. Ord. II of 1985 and saving.*—(1) The Maharashtra Housing and Area Development (Amendment) Ordinance, 1985 (Mah. Ord. II of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken, as the case may be, under the principal Act, as amended by this Act.

**THE MAHARASHTRA LUXURY-CUM-ENTERTAINMENT AND
AMUSEMENT TAX ON HOLDERS OF TELEVISION SETS
(REPEAL) ACT, 1985**

The following Act of the Maharashtra Legislature received the assent of the Governor the 2nd April, 1985, and was published in the *Maharashtra Govt. Gazette*, Part IV, dated April 11, 1985.

MAHARASHTRA ACT NO V OF 1985.

An Act to repeal the Maharashtra Luxury-cum-Entertainment and Amusement Tax on Holders of Television Sets Act, 1982.

Whereas it is considered desirable and expedient to repeal the Maharashtra Luxury-cum-Entertainment and Amusement Tax on Holders of Television Sets Act, 1982 (Mah. XIX of 1982) and to provide for certain matters incidental thereto; It is hereby enacted in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Maharashtra Luxury-cum-Entertainment and Amusement Tax on Holders of Television Sets (Repeal) Act, 1985.**

2. *Repeal of Mah. XIX of 1982.*—On and with effect from 25th day of March, 1985, the Maharashtra Luxury-cum-Entertainment and Amusement Tax on Holders of Television Sets Act, 1982 (Mah. XIX of 1982), shall stand repealed.

3. *Refund of Tax.*—(1) Any holder of television set who has paid tax for the whole year commencing from the 1st day of January, 1985 and ending on the 31st day of December 1985 or any part thereof beyond the month of March 1985 shall be entitled to claim refund of the proportionately at the rate of Rs. 5 per month for a period from the 1st day of April, 1985 onwards for which he has paid such tax.

(2) Such holder of television set shall apply for such refund in such form, in such manner and to such authority as may be prescribed by rules made in that behalf.

4. *Power to make rules.*—(1) The power to make rules under this Act, shall be exercisable by the State Government by notification in the Official Gazette.

(2) All rules made under this Act shall be subject to condition of previous publication.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each of the State Legislature, while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and, if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification, have effect in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

5. *Savings.*—The provisions of section 7 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), with regard to effect of repeal, shall apply.

6. *Power to remove difficulties.*—If any difficulty arises in giving effect to

any of the provisions of this Act, the State Government may, as occasion arises, by order, do anything which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such order shall be made, after the expiry of a period of two years from the date of commencement of this Act.

**THE MAHARASHTRA OWNERSHIP FLATS (REGULATION OF
THE PROMOTION OF CONSTRUCTION, SALE, MANAGE-
MENT AND TRANSFER) (EXTENSION OF DURATION)
ACT, 1985.**

The following Act of the Maharashtra Legislature received the assent of the President on 26th April, 1985, and was published in the *Maharashtra Govt. Gazette*, Part IV, dated May 9, 1985.

MAHARASHTRA ACT NO. VI OF 1985

An Act to extend the duration of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

Whereas both Houses of the State Legislature were not in session ;

And, Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to extend the duration of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (Mah. XLV of 1963) ; and, therefore, promulgated the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Extension of Duration) Ordinance, 1985 on the 20th February, 1985 ;

And Whereas, it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Extension of Duration) Act, 1985.

2. *Amendment of section 1 of Mah. XLV of 1963.*—In section 1 of the Maharashtra Ownership Flats (Regulation of the promotion of construction sale, management and transfer) Act, 1963 (hereinafter referred to as "the principal Act"), in sub-section (4), for the figures "1985" the figures "1990" shall be substituted.

3. *Repeal of Mah. Ord. III of 1985 and savings.*—(1) The Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Extension of Duration) Ordinance, 1985 (Mah. Ord. III of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the principal Act as amended by this Act.

THE INDIAN FOREST (MAHARASHTRA AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature received the assent of the President on 29th April, 1985, and was published in the *Maharashtra Government Gazette*, Part IV, dated May 9, 1985.

MAHARASHTRA ACT NO. VII OF 1985

An Act, further to amend the Indian Forest Act, 1927, in its application to the State of Maharashtra.

Whereas it is expedient further to amend the Indian Forest Act, 1927 (XVI of 1927) in its application to the State of Maharashtra, for the purposes hereinafter appearing; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Forest (Maharashtra Amendment) Act, 1984.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2 of Act XVI of 1927.*—In section 2 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), in clause (4C), for the words and figures "the Bombay Land Revenue Code, 1879 (Bombay V of 1879) or, where that Code is not in force, as defined in a law corresponding to that Code," the words and figures "the Maharashtra Land Revenue Code, 1966 (Maharashtra XLI of 1966)," shall be substituted.

3. *Amendment of section 26 of Act XVI of 1927.*—In section 26 of the principal Act, in sub-section (1) for the words "six months or with fine which may extend to five hundred rupees," the words "one year or with fine which may extend to two thousand rupees," shall be substituted.

4. *Amendment of section 28 of Act XVI of 1927.*—In section 28 of the principal Act,—

(a) for the words and figures "the Bombay Village Panchayats Act, 1933 (Bombay VI of 1933) the words and figures "the Bombay Village Panchayat Act, 1958 (Bombay III of 1959)," shall be substituted;

(b) for the words and figures "the Bombay Co-operative Societies Act, 1925 (Bombay VII of 1925)," the words and figures "the Maharashtra Co-operative Societies Act, 1960 (Maharashtra XXIV of 1961)," shall be substituted.

5. *Amendment of section 33 of Act XVI of 1927.*—In section 33 of the principal Act, in sub-section (1), for the words "six months or with fine which may extend to five hundred rupees," the words "one year or with fine which may extend to two thousand rupees," shall be substituted.

6. *Amendment of section 42 of Act XVI of 1927.*—In section 42 of the principal Act, in sub-section (1), for the words "six months or with fine which may extend to five hundred rupees," the words "one year or with fine which may extend to two thousand rupees," shall be substituted.

7. *Amendment of section 52 of Act XVI of 1927.*—In section 52 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) Any Forest-Officer or police officer may, if he has reason to believe that a vehicle has been or is being used for the transport of forest-produce in respect of which there is reason to believe a forest offence has been or is being committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in the possession of such driver or other person in charge of the vehicle”;

(b) in sub-section (2),—

(i) after the words “on such property,” the words and brackets “or the receptacle or vehicle” (if any) in which it is contained”, shall be inserted;

(ii) after the proviso, the following shall be added, namely:—

“Provided further that, where the offence on account of which the seizure has been made is in respect of timber, sandalwood, firewood, charcoal or such other forest-produce as may be notified by the State Government from time to time (hereinafter referred to as the “notified forest-produce”) and which is the property of the State Government, such officer shall make a report of such seizure also to the concerned authorised officer under section 61A.

Explanation.—For the purposes of this Chapter, the expressions “property of Government” and “property of the State Government” include the property belonging to the Forest Development Corporation of Maharashtra, Limited.”;

(c) in the marginal note, for the word “confiscation,” the word “confiscation and forfeiture.” shall be substituted.

8. *Amendment of section 53 of Act XVI of 1927.*—In section 53 of the principal Act, for the words and figures “under section 52, may release” the words, figures and letter “under section 52 may, subject to section 61 G, release” shall be substituted.

9. *Substitution of section 54 of Act XVI of 1927.*—For section 54 of the principal Act, the following section shall be substituted, namely:—

“54. *Procedure on receipt by Magistrate of report of seizure.*—Upon the receipt of any report under sub-section (2) of section 52, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and, subject to sections 58 and 61 G, for the disposal of the property according to law.”

10. *Amendment of section 55 of Act XVI of 1927.*—In section 55 of the principal Act,—

(a) in sub-section (1), for the words “shall be liable to confiscation,” the words, figures and letter “shall, subject to section 61 G, be liable by order of the convicting court to forfeiture.” shall be substituted;

(b) in sub-section (2), for the word “confiscation,” the word “forfeiture” shall be substituted;

(c) in the marginal note, for the word “confiscation,” the word “forfeiture” shall be substituted.

11. *Amendment of section 56 of Act XVI of 1927.*—In section 56 of the principal Act,—

(a) for the word “confiscation” the word “forfeited” shall be substituted;

(b) for the words “in any other case, may be disposed of” the words

figures and letter "in any other case may, subject to section 61G, be disposed of" shall be substituted.

12. *Amendment of section 57 of Act XVI of 1927*—In section 27 of the principal Act, for the portion beginning with the words "the Magistrate may" and ending with the words "to be confiscated" the following shall be substituted, namely :—

"the Magistrate may if he finds that an offence has been committed, but subject to section 61G, order the property in respect of which the offence has been committed, to be forfeited together with tools, boats, vehicles or cattle and other articles used in committing the offence."

13. *Substitution of section 58 of Act XVI of 1927*—For section 58 of the principal Act, the following section shall be substituted, namely :—

"58. *Procedure as to perishable property seized under section 52*.—The Forest officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law, sell any property seized under section 52 and subject to the speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold and shall report about every such sale to his official superior."

14. *Amendment of section 60 of Act XVI of 1927*—In section 60 of the principal Act, for the word "confiscation" the word "forfeiture" shall be substituted.

15. *Amendment of section 61 of Act XVI of 1927*.—In section 61 of the principal Act, for the words and figures "seized under section 52," the following shall be substituted, namely :—

"seized under section 52 which is not the property of Government and the withdrawal of any charge made in respect of such property."

16. *Insertion of section 61A to 61G in Act XVI of 1927*.—After section 61 of the principal Act, the following sections shall be inserted, namely :—

"61A. *Confiscation by Forest-officers of forest-produce where forest-offence is believed to have been committed*.—(1) Notwithstanding anything contained in the foregoing provisions of this Chapter or any other law, where a forest-offence is believed to have been committed in respect of timber, sandalwood, firewood, charcoal, or any other notified forest-produce which is the property of the State Government, the officer seizing the property under sub-section (1) of section 52 shall, without any unreasonable delay produce it, together with all tools, boats, vehicle and cattle used in committing such offence, before an officer authorised by the State Government in this behalf by notification in the official Gazette not being an officer below the rank of an Assistant Conservator of Forest (hereinafter referred to as "the authorised officer").

(2) The State Government may authorise one or more officers for any local area under sub-section (1).

(3) Where an authorised officer seizes under sub-section (1) of section 52 any timber, sandalwood, firewood, charcoal or any other notified forest-produce which is the property of the State Government or any such property is produced before an authorised officer under sub-section (1) and he is satisfied that a forest-offence has been committed in respect of such property such authorised officer may, whether or not a prosecution is instituted for the commission of such forest-offence, order confiscation

of the property so seized together with all tools, boats, vehicles and cattle used in committing such offence.

(4)(a) Where the authorised officer, after passing an order of confiscation under sub-section (3), is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof and the tools, boats, vehicles and cattle to be sold by public auction.

(b) Where any confiscated property or the tools, boats, vehicles and cattle are sold, as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses relating thereto shall, where the order of confiscation made under this section is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it is seized as may be specified in such order.

61B. *Issue of show cause notice before confiscation under section 61A.*—

(1) No order confiscating any timber, sandalwood, firewood, charcoal or any other notified forest-produce, tools, boats, vehicles or cattle shall be made under section 61A except after notice in writing to the person from whom it is seized and considering his objections, if any :

Provided that no order confiscating a motor vehicle shall be made except after giving notice in writing to the registered owner thereof, in the opinion of the authorised officer it is practicable to do so, and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any tool, boat, vehicle or cattle shall be made under section 61A if the owner of the tool, boat, vehicle or cattle proves to the satisfaction of the authorised officer that it was used in carrying the timber, sandalwood, firewood, charcoal or any other notified forest-produce without the knowledge or connivance of the owner himself, his agent if any, and the person in charge of the tool, boat, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

61C. *Revision.*—Any Forest officer not below the rank of Conservator of Forest specially empowered by the State Government in this behalf by notification in the Official Gazette may, suo motu call for and examine the record of the order of the authorised officer under section 61A ; and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit :

Provided that no such record shall be called for after the expiry of 30 days from the date of such order and no order under this section shall be passed if, in the meanwhile, an appeal has been filed under section 61D against the order of the authorised officer :

Provided further that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

61D. *Appeal.*—(1) Any person aggrieved by any order passed under section 61A or section 61C may, within thirty days from the date of communication to him of such order appeal to the Sessions Judge having jurisdiction over the area in which the property and the tools, boats, vehicles and cattle to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the authorised officer or the officer specially empowered under section 61C, as the case may be, to be heard, pass such order as he may think fit confirming, modi-

fying or annulling the order appealed against.

(2) An order of the Session Judge under sub-section (1) shall be final and shall not be questioned in any court.

61E. *Award of confiscation not to interfere with other punishments.*—The award of any confiscation under section 61A or section 61C or section 61D shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act or any other law for the time being in force.

61F. *Property etc. confiscated when to vest in Government*—When an order for confiscation of any property or any tools, boats, vehicles or cattle is passed under section 61A or section 61C or section 61D and such order has become final in respect of the whole or any portion of such property, or tool, boat, vehicle or cattle, such property or portion thereof or tool, boat, vehicle or cattle, or if it has been sold under clause (a) of sub-section (4) of section 61A the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.

61G. *Bar of jurisdiction in certain cases*—Whenever any timber, sandalwood, charcoal or any other notified forest produce which is the property of the State Government, together with any tool, boat, vehicle or cattle used in committing any offence is seized under sub-section (1) of section 52, the authorised officer under section 61A of the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have, and notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (11 of 1974), or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have jurisdiction to make orders with regard to the custody, possession, delivery, disposal or distribution of such property and any tool, boat, vehicle or cattle.

17. *Amendment of section 62 of Act XVI of 1927.*—Section 62 of the principal Act, shall be renumbered as sub-section (1) thereof and;—

(a) in sub-section (1) as so re-numbered, for the word "confiscation" the words "confiscation or forfeiture" shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be added, namely:

(2) Any fine so imposed, or any portion thereof, shall, if the convicting court so directs, be given as compensation to the person aggrieved by such seizure."

18. *Amendment of section 65 of Act XVI of 1927.*—In section 65 of the principal Act, for the words "may release such person" the words, figures and letter "may, subject to and without prejudice to the provisions of section 65A, release such person" shall be substituted.

19. *Insertion of section 65A in Act XVI of 1927.*—After section 65 of the principal Act, the following section shall be inserted, namely:—

65A. *Certain offences to be non-bailable.*—Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 (11 of 1974),

(a) The offences under sections (or) clauses of sections mentioned in clause (b) shall be non-bailable.

(b) The section and clauses of sections of this Act referred to in clause (a) are the following, namely:—
Section 26, clauses (a), (b), (f), (g), (h) and (i) of sub-section (1).

Section 33, clause (a), (b), (c), (d), (f) and (h) of sub-section (1).

Section 42,

Section 63.

(c) No person accused of any offence referred to in clause (b), shall if, in custody, be released on bail or his own bond unless,—

(i) the prosecution has been given an opportunity to oppose the application for such release, and

(ii) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.”

20. *Amendment of section 67 of Act XVI of 1927.*—In section 67 of the principal Act,—

(a) for the words and figures “the Code of Criminal Procedure, 1898 (V of 1898), the words and figures “the Code of Criminal Procedure, 1973 (II of 1974)” shall be substituted ;

(b) for the words “not exceeding six months, or fine not exceeding five hundred rupees or both”, the words “not exceeding one year, or fine not exceeding two thousand rupees, or both, and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial ; but, notwithstanding anything contained in the said Code, in the case of conviction for any offence in a summary trial under this section, it shall be lawful for the Magistrate to pass sentence of imprisonment for any term for which such offence is punishable under this Act” shall be substituted.

21. *Amendment of section 72 of Act XVI of 1927.*—In section 72 of the principal Act, in sub-section (1), in clause (c), for the words and figures “the Code of Criminal Procedure, 1898 (V of 1898), the words and figures “the Code of Criminal Procedure, 1973 (II of 1974)” shall be substituted.

THE BOMBAY PUBLIC TRUSTS (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the President on the 28th May, 1985, was published in the *Maharashtra Government Gazette*, Part IV, dated June 10, 1985.

MAHARASHTRA ACT NO. VIII OF 1985

An Act to amend the Bombay Public Trust Act, 1950.

Whereas it is expedient further to amend the Bombay Public Trust Act, 1950 (Bom. XXIX of 1950), for the purposes hereinafter appearing ; It is hereby enacted in the Thirty-fifth Year of the Republic of India, as following :—

1. *Short title and commencement.*—(1) This Act may be called the **Bombay Public Trusts (Amendment) Act, 1984.**

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 41A of Bom. XXIX of 1950.*—In section 41A of the Bombay Public Trust Act, 1950 (XXIX of 1950) (hereinafter referred to as “the principal Act”), in the marginal note, after the word “directions” the words “for proper administration of the trust” shall be added.

3. *Insertion of section 41AA in Bom. XXIX of 1950.*—After section 41A of the principal Act, the following section shall be inserted, namely :—

“41AA. *Power of Charity Commissioner and State Government to issue dire-*

ctions in respect of hospitals, etc. to earmark certain beds etc. for poor patients to be treated free of charge or a concessional rate.—(1) Notwithstanding anything contained in any law for the time being in force or in any instrument of trust or in any contract or in any judgment, decree or order of any Court, Tribunal, Charity Commissioner or other competent authority, in the case of any State-aided public trust, whose annual expenditure exceeds five lakhs of rupees, or such other limit as the State Government may, from time to time, by notification in the Official Gazette specify, with a view to making essential medical facilities available to the poorer classes of the people, either free of charge or at concessional rates, it shall be lawful for the Charity Commissioner, subject to such general or special order as the State Government may, from time to time, issue in this behalf, to issue all or any of the following directions to the trustees of, or persons connected with, any such trust, which maintains a hospital (including any nursing home or maternity home), dispensary or any other centre for medical relief (hereinafter referred to as "the medical centre") namely :—

(a) having regard to the accommodation and facilities available to admission to the medical centre open to any person without any discrimination on the ground of religion, race, caste, sex, place of birth, language or any of them :

Provided that, where a medical centre is exclusively for females, treatment for any males at such centre shall not be insisted upon ;

(b) to reserve and earmark ten per cent. of the total number of operational beds and ten per cent of the total capacity of patients treated at such medical centre for medical examination and treatment in each department of the medical centre, in such manner as may be specified in the directions, of the indigent patients seeking admission or treatment, who shall be medically examined and treated and admitted, as the case may be, free of charge ;

(c) to reserve and earmark ten per cent of the total number of operational beds and ten per cent of the total capacity of patients treated at such medical centre, for medical examination and treatment in each department of the medical centre, in such manner as may be specified in the directions for the weaker sections of the people seeking admission for medical examination and treatment, who shall be charged according to such rates as the State Government may, by general or special order, determine from time to time having regard to the rates charged by the State Government in the corresponding medical centres maintained by it ;

(d) to comply with such other incidental or supplemental requirement as may be specified in the directions or in any general or special orders issued thereunder :

Provided that while issuing any directions as aforesaid the Charity Commissioner shall take into consideration such facilities as are already made available by any such medical centre and having regard to the availability of such facilities may give appropriate directions if any, consistent with and subject to the percentage specified in clauses (b) and (c).

(2) (a) It shall be lawful for the officer duly authorised by the State Government in this behalf, or for the Charity Commissioner by himself or through his representative duly authorised by him in this behalf, to verify the implementation of the directions given under sub-section (1) to any medical centre, and, for that purpose, visit, inspect and call for information and returns periodically or otherwise.

(b) It shall be the duty of every trustee of, or person connected with, such medical centre to comply with the directions issued under sub-section (1) and to afford all reasonable facilities and assistance required by the said officer or the Charity Commissioner or his representative for verification of the implementation of such directions under clause (a) and to comply with the requirements thereunder.

(c) In case there arises any dispute relating to the interpretation, implementation or any matter whatsoever in respect of any direction issued under sub-section (1), it shall be referred to the State Government, through the Charity Commissioner, for appropriate directions.

(3) Nothing in sub-sections (1) and (2) shall prejudicially affect any medical facilities of whatever nature which any such State-aided public trust has provided by virtue of any condition subject to which any grant, exemption, concession, etc. referred to in clause (a) of sub-section (4) has been granted or received by it or otherwise and such medical facilities which are in operation on the date of commencement of the Bombay Public Trusts (Amendment) Act, 1984 (Mah VIII of 1985), shall continue as before if they exceed the percentage of reserved and earmarked category.

(4) For the purposes of this section,—

(a) "State-aided public trust" means a public trust exclusively for medical relief or for medical relief and other charitable purposes, which maintains a hospital (including any nursing home or maternity home), dispensary or any other centre for medical relief, and which—

(i) has received any grant of land or building, either on ownership basis or on lease or leave and licence, at a nominal or concessional rate, from the State Government or the Central Government or any local authority; or

(ii) has been given by the State Government any exemption or permission to continue to hold any vacant land under section 20 or 21 of the Urban Land (Ceiling and Regulation) Act, 1976 (XXXIII of 1976); or

(iii) has been given any concession or exemption or relaxation of a substantial nature from the Development Control Rules by any competent authority for the purposes of the trust; or

(iv) has received any loan or guarantee or any non-recurring grant-in-aid or other financial assistance or is receiving any recurring grant-in-aid or other financial assistance from the State Government, the Central Government or any local authority.

(b) "indigent person" means a person whose total annual income does not exceed three thousand and six hundred rupees or such other limit as the State Government may, from time to time, by notification in the *Official Gazette*, specify.

(c) "person belonging to the weaker sections of the people" means a person who is not an indigent person, but whose income does not exceed fifteen thousand rupees per annum or such other limit as the State Government may, from time to time, by notification in the *Official Gazette*, specify;

(d) it shall be the duty of the governing body (by whatever name called) of every medical centre to get the category of a patient duly verified and recorded in a register kept for the purpose in the prescribed form before he is admitted or treated as a patient within the reserved and earmarked percentage under sub-section (1). If there is any dispute as to the

category of a patient, it shall be referred to the State Government, through the Charity Commissioner, for appropriate direction.

(5) Notwithstanding anything continued in the foregoing provisions of this section, any person, who desires to undergo an operation for sterilization or an *intra-ocular* operation or who desires to undergo any operation or medical treatment specified by the State Government in this behalf, shall not be entitled, and shall not be allowed, to seek admission in any hospital or other medical centre in the reserved or earmarked quota provided under this section."

4. *Amendment of section 66 of Bom. XXIX of 1950.*—In section 66 of the principal Act, in the Table, after the entry relating to section 35, the following entry shall be inserted, namely:—

"Section 41AA Failure without reasonable cause to com- 2,000"
ply with any directions issued under that
section.

5. *Amendment of section 81 of Bom. XXIX of 1950.*—In section 81 of the principal Act, after the words "or authority" the words "or representative of the Charity Commissioner" shall be inserted.

THE BOMBAY SALES TAX (AMENDMENT) ORDINANCE, 1985

Published in the *Maharashtra Govt. Gazette*, Part IV, dated May 24, 1985

MAHARASHTRA ORDINANCE NO. V OF 1985

An Ordinance further to amend the Bombay Sales Tax Act, 1959.

Whereas both House of the State Legislature are not in session ;

And Whereas I, Shri Konda Mahadev Reddy, discharging the functions of the Governor of Maharashtra, am satisfied that circumstances exist which render it necessary for me to take immediate action further to amend the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), for the purposes hereinafter appearing ;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, I, Shri Konda Mahadev Reddy, discharging the functions of the Governor of Maharashtra hereby make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Bombay Sales Tax (Amendment) Ordinance, 1985**

(2) This Ordinance shall come into force at once.

2. *Amendment of section 2 of Bom. LI of 1959.*—In section 2 of the Bombay Sales Tax Act, 1959 (Bom. LI of 1959) (hereinafter referred to as "the principal Act"),—

(a) after clause (5A), the following clause shall be inserted, namely :—

"(5B) "Certificate of Entitlement" means a certificate of entitlement issued by the Commissioner under entry 136 of the Schedule to the notification issued under section 41 ;";

(b) after clause (9), the following clause shall be inserted, namely :—

"(9A) "cumulative quantum of benefit" means,—

(i) the sales tax or purchase tax or both which would have been payable on the purchase of raw material,

(ii) the sales tax payable on the sales of its finished products by the Eligible Unit under this Act, and

(iii) the tax payable under the Central Sales Tax Act, 1956 (LXXIV of 1956), on the sales of finished products of Eligible Unit made in the course of inter-State trade or commerce computed at the rate of 4 paise in the rupee.

but for the exemption admissible under the Certificate of Entitlement.

Explanation.—For the purpose of cumulative computation of a benefit the tax calculated at the prescribed rates on the value of goods transferred otherwise than by way of sales shall also be included ;”;

(c) after clause (12), the following clauses shall be inserted, namely:—

“(12A) “Eligibility Certificate” means a certificate granted by SICOM or the relevant Regional Development Corporation under the Package Scheme of Incentives designed by the State Government, for promoting industrialization of the backward areas of the State;

(12B) “Eligible Unit” means the Industrial Unit in respect of which an Eligibility Certificate is issued;”;

(d) after clause (25), the following clause shall be inserted, namely:—

“(25A) “relevant Regional Development Corporation” —

(a) in relation to the Vidarbha area of the State, means the Development Corporation of Vidarbha Limited, a Government Company registered under the Companies Act, 1956 (1 of 1955);

(b) in relation to the Konkan revenue division excluding the City of Bombay and the Bombay Suburban Districts, means the Development Corporation of Konkan Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);

(c) in relation to the Marathwada area of the State, means the Marathwada Development Corporation Limited, a Government Company registered under the Company Act, 1956 (1 of 1956);

(d) in relation to the rest of Maharashtra, means the Western Maharashtra Development Corporation Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);

(e) after clause (30) the following clause shall be inserted namely:—

“(30A) “SICOM” means the State Industrial and Investment Corporation of Maharashtra Limited, a Government Company registered under the Companies Act, 1956 (1 of 1956);”.

3. *Amendment of section 36 of Bom. LI of 1959.*—In section 36 of the principal Act, in sub-section (3), in the second proviso, for the portion beginning with the words “no penalty” and ending with the words “Development Corporation” the following shall be substituted, namely:—

“without prejudice to the provisions of section 41A, no penalty under this section shall be payable by a dealer to whom an Eligibility Certificate has been granted by the SICOM or by the relevant Regional Development Corporation”

4. *Amendment of section 38 of Bom. LI of 1959.*—In section 38 of the principal Act, in sub-section (4) in the second proviso, for the portion beginning with the words “State Industrial” and ending with the words “Development Corporation”, the following shall be substituted, namely:—

“SICOM or by the relevant Regional Development Corporation.”

5. *Insertion of section 41A in Bom. LI of 1959* —After section 41 of the principal Act, the following section shall be inserted, namely:—

“41A. *Cumulative quantum of benefit not to exceed one hundred per cent of gross fixed capital investment, etc.*—(1) Notwithstanding anything con-

tained in this Act or in any judgement, decree or order of any Court or Tribunal to the contrary, on and after the date of commencement of the Bombay Sales Tax (Amendment) Ordinance, 1985 (Mah. Ord. V of 1985), (hereinafter in this section referred to as "the commencement date") the cumulative quantum of benefit drawn or availed of by any registered dealer of an Eligible Unit in respect of payment of any tax by virtue of the exemption granted under the provisions of section 41 shall not exceed one hundred per cent. of the gross fixed capital investment of the Eligible Unit as approved at the time of grant of Eligibility Certificate, or such other lower ceilings of percentage, if any, as may be provided under the Eligibility Certificate issued in accordance with the provisions of any Package Scheme of Incentives.

(2) Where, in the case of any registered dealer of an Eligible Unit the cumulative quantum of benefit availed of by him, has exceeded the limit laid down in sub-section (1) on the commencement date, or exceeds such limit on any day after the commencement date, then the Eligibility Certificate shall cease to have any effect in relation to the exemption from payment of tax under this Act or under the Central Sales Tax Act, 1956 (LXXIV of 1956), and the Certificate of Entitlement shall stand automatically cancelled on the commencement date or any such day, as the case may be, and such registered dealer shall not be entitled to claim any further benefit of exemption from payment of such tax under the Eligibility Certificate or the Certificate of Entitlement on or after the commencement date or any such day, as the case may be, and the dealer shall surrender the Certificate of Entitlement together with all the unused Form BC which have been attested by the Sales Tax authorities to the Commissioner forthwith and in any case within 15 days from the commencement date or any such day.

(3) Notwithstanding anything contained in sub-sections (1) and (2), no registered dealer of an Eligible Unit shall be entitled to claim any benefit of exemption from payment of any tax beyond the period covered by the Eligibility Certificate and the provisions of sub-section (2) regarding surrender of the Certificate of Entitlement together with the unused Form BC shall *mutatis mutandis* apply to such registered dealer."

6. *Amendment of section 63 of Bom. LI of 1959.*—In section 63 of the principal Act—

(a) in sub-section (10), after clause (d), the following clause shall be inserted, namely:—

"(d-1) fails without sufficient cause to surrender the Certificate of Entitlement together with all unused Form BC as required under sub-section (2) or (3) of section 41A, or";

(b) in sub-section (13), after the brackets and letter "(d)", the brackets, letter and figure "(d-1)", shall be inserted.

STATEMENT

The Government of Maharashtra has announced the Package Scheme of Incentives, 1979, under Government Resolution, Industries, Energy and Labour Department, No. IDL-7079/(2043)/IND-9, dated 5th January 1980, which provides *inter alia* that the small-scale units set in the industrially backward areas in the State would be eligible for Sales Tax exemption for a period ranging from 5 to 9 years without any limit. Subsequently it was noticed that in the absence of any limit on the benefit of exemption of Sales

Tax derived from the Package Scheme of Incentives, 1979, many a small-scale unit were able to exploit the concession and earned such incentives in Sales Tax exemption exceeding 100 per cent. of their gross fixed capital investment in the eligible small-scale unit. This has resulted in a huge draw on the public exchequer, which was never intended by the State Government when the Package Scheme of Incentives, 1979, was designed and announced. The concession of exemption of Sales Tax granted to such small-scale units has rendered this Scheme inequitable as against the Government. The existing small-scale units also represented to Government that the new small-scale units claiming benefits under the Package Scheme of Incentives, 1979, took undue advantage of not laying down any limit in claiming exemption of tax and are creating unhealthy trade practice and competition.

2. Therefore, by Government Resolution, Industries, Energy and Labour Department, No. IDL-7012/(3559)/IND-8, dated 5th July 1982, Government sought to modify the Package Incentive Scheme and the benefits derived from the Incentives were then limited to 100 per cent. of the fixed capital investment of the small-scale units. The Package Scheme of Incentives, 1979, provides for giving notice of 6 months for any change or modification in the Scheme and accordingly the modified Scheme dated 5th July 1982 was proposed to be brought into force in respect of small-scale units with effect from 10th January 1983. However during the intervening period of notice, a number of small-scale units particularly the oil units tried to take advantage of the unlimited incentives to the disadvantage of the existing units and also caused loss to the public exchequer in respect of revenue from Sales Tax and attempts of the State Government to regulate the incentives in respect of these units led to litigation. After the decision of the Bombay High Court in Tapti Oil Industries and Another *versus* State of Maharashtra and Others reported in (1984) 56 STC 193, a large majority of registered dealers covered by the Package Scheme of Incentives, 1979, claim benefit of tax exemption without any limit thus causing a continuing loss to the revenue.

3. Government, therefore, considers it expedient that it will not be in the public interest to continue the concession which is rendered inequitable against the Government and for that matter to make suitable provisions in the Bombay Sales Tax Act, 1959 immediately so as to limit the benefit derived by virtue of the exemption availed of in respect of the payment of sales tax under the Package Incentive Schemes in general to the extent of one hundred per cent. of the gross fixed capital investments of the eligible unit as approved at the time of the grant of eligibility certificate or such other lower ceiling of percentage, if any, as may be provided under the Eligibility Certificate issued in accordance with the provisions of any Package Scheme of Incentives, and consequently, to provide for automatic cancellation of the certificate of entitlement granted by the Commissioner of Sales Tax.

4. As both Houses of the State Legislature are not in session and it is necessary to take immediate action further to amend the Bombay Sales Tax Act, 1959 for the purposes aforesaid, this Ordinance is promulgated.

KONDA MADHAVA REDDY,
Discharging the functions of the
Governor of Maharashtra.

Dated the 24 May 1985.

**THE MAHARASHTRA RESETTLEMENT OF PROJECT
DISPLACED PERSONS (AMENDMENT AND VALIDA-
TION) ORDINANCE, 1985.**

Published in the *Maharashtra Govt. Gazette*, Part IV, dated June 11, 1985.

MAHARASHTRA ORDINANCE NO. VI OF 1985

An Ordinance further to amend the Maharashtra Resettlement of Project Displaced Persons Act 1976 and make certain validating provisions.

Whereas both Houses of the State Legislature in session ;

And whereas the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Maharashtra Resettlement of Project Displaced Persons Act, 1976 (Mah. XLI of 1976), for the purposes hereinafter appearing ;

And whereas the instructions of the President under the proviso to clause (1) of Article 213 of the Constitution of India have been obtained ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Ordinance, 1985.**

(2) It shall come into force at once.

2. *Amendment of section 14 of Mah. XLI of 1976.*—In section 14 of the Maharashtra Resettlement of Project Displaced Persons Act, 1976 (Mah. XLI of 1976) (hereinafter referred to as “the principal Act”), for sub-section (2), the following sub-section shall be substituted, and shall be deemed always to have been substituted, namely :—

“(2) The declaration under sub-section (1) shall call upon the persons interested in the land to make (if any) objections to, and suggestions for the inclusion of any land in the area referred to in clause (a) or clause (b) of sub-section (1), and send them to the Collector and Deputy Director of Resettlement (Land) within a period of not less than thirty days as may be specified in the notification.”

3. *Amendment of section 17 of Mah. XLI of 1976.*—In section 15 of the principal Act, in sub-section (1) for the portion beginning with the words “The State Government shall”, and ending with the words “further inquiry as it may think fit”, the following shall be substituted, and shall be deemed always to have been substituted, namely :—

“The Collector and Deputy Director of Resettlement (Land) shall, with all reasonable despatch, forwards the objections and suggestions, if any received under sub-section (2) of section 14, together with his report in respect thereof, to the State Government and on considering the report and the objections and suggestions, if any, as also the suggestions, if any, received by it under sub-section (3) of section 14, the State Government shall.”

4. *Validation of final declaration issued under section 15, and of acquisition of land under section 16 of Mah. XLI of 1976.*—(1) Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court, every final declaration made or purporting to have been made under section 15 of the principal Act before the commencement of

the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Ordinance, 1985 (Maharashtra Ordinance VI of 1985), shall be, and shall be deemed always to have been valid and effective in accordance with law; and no such declaration shall be called in question in any court of law merely on the ground that the provisions of sections 13 and 14 of the Principal Act have not been complied with, in part or in whole, or that an opportunity of being heard was not given to the persons affected by such declaration or that no further enquiry was made by the State Government, before making such declaration.

(2) Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court,—

(a) no acquisition of land or right in or over land or purporting to have been made under, and for the purposes of, the principal Act before the commencement of the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Ordinance, 1985 (Mah. Ord. VI of 1985) and no action taken or thing done (including any order made, agreement entered into or any notice or notification published) in connection with such acquisition and the grant or distribution of such land for resettlement of any displaced person shall be deemed to be invalid, or ever to have become invalid merely on the ground—

(i) that before making the final declaration under section 15 of the principal Act, the provisions of sections 13 and 14 of the principal Act have not been complied with, in part or in whole, or that an opportunity of being heard was not given to the persons affected by such declaration, or that no further enquiry was made by the State Government; and

(ii) that before or after publishing any notification in connection with the acquisition of land for the purposes of the principal Act in accordance with the provisions of section 16 of the Principal Act and the Land Acquisition Act, 1894 (I of 1894), the provisions of sections 19, 20, 21 or any other provisions of the principal Act, have not been complied with, in part or in whole;

(b) any acquisition in pursuance of notification issued under the provisions of section 16 of the principal Act and the Land Acquisition Act, 1894 (I of 1894), before the commencement of the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Ordinance, 1985 (Mah. Ord. VI of 1985) may be made after such commencement and no such acquisition and no action taken or thing done (including any order made, agreement entered into or notice or notification published or grant or distribution of such land made for resettlement of displaced persons) whether before or after such commencement in connection with such acquisition or grant or distribution of land shall be deemed to be invalid merely on the grounds referred to in clause (a) or any of them;

(c) no suit or legal proceeding shall be maintained or continued in any court on the grounds referred to in clause (a) or any of them.

STATEMENT

The Maharashtra Resettlement of Project Displaced Persons Act, 1976 (Mah. XLI of 1976) has been enacted to provide for the resettlement of certain persons displaced from lands which are acquired for projects of public utility and for matters connected therewith. The scheme of the Act relevant to the proposals for resettlement of the displaced persons and the

acquisition of the land for projects of public utility, in short, is as under :—

Section 10 contemplates resettling of displaced persons on the land, both in the benefited zone of project and outside, which, after acquisition forms part of the "land pool", as defined under section 2(II) of the Act. Any project proposed to be brought within the scheme of the Act is first to be notified under section 11, whereupon the restriction referred to in section 12, on transfer, etc., of lands in the villages notified under section 11 become operative. Section 13 requires the Resettlement Officer to make an assessment of the extent of land from which persons have been displaced and the extent of land available for Resettlement and also collect certain information in connection with the resettlement scheme. On receipt of the assessment under section 13 the State Government makes a provisional declaration under section 14 of the affected and benefited area under the project. Section 15 provides for making final declaration of the affected and benefited zones. Section 16 provides for the acquisition of land required for the purposes of the Act, and all lands so acquired constitute the "land pool". Section 19 requires publication of a public notice calling upon the displaced persons to state if they want land for resettlement. Section 20 requires preparation of a draft scheme for resettlement and section 21 requires publication of the scheme of resettlement and sanctioning of the said scheme.

2. In writ Petition No. 2407 of 1980—Gulab Shanker Walve *versus* the Special Land Acquisition Officer and Another, decided together with other six allied petitions the High Court of Bombay, by its judgment dated 24th November 1980, held that the powers of acquisition of land under section 16 (2) and the mechanism of the Land Acquisition Act, 1984 cannot be invoked unless there is compliance of the procedure laid down under sections 13 to 15 and as there was failure in compliance with this procedure in respect of the land acquired for the Upper Pravara Project the High Court quashed the acquisition proceedings in those seven writ petitions. In respect of acquisition of land from the benefited zoner of the Warna and Dudhganga Projects which have been notified under the Act 101 writ petition were filed challenging the issue of notifications under sections 4 & 6 of the land Acquisition Act 1894 on the grounds *inter alia* that the provisions of sections 13 to 15 have not been followed strictly. The omission in these cases included the failure on the part of the Government to give a hearing to the concerned persons under section 15 of the Act. In those petitions Government gave an undertaking to the effect that the notifications issued under sections 4 and 6 of the Land Acquisition Act and those issued under sections 14 and 15 of the Maharashtra Resettlement of Project Displaced Persons Act would be withdrawn and thereupon the court allowed the withdrawal of the Petitions. It is apprehended that many more writ petitions will be filed on the same ground and also on the ground that while granting or distributing the lands to the project displaced person the procedure of giving public notice or for preparing schemes and publication thereof under sections 19 to 21 has not been followed which would seriously jeopardise the actions taken so far to acquire lands for carrying out the purposes of the Act. Although the State Government did not give personal hearing to the persons concerned the final declaration under section 15 have been made after considering the re-

port of the Collector and Deputy Director of Resettlement of (Land) in respect of the objections or suggestions if any, received by him and further proceedings for acquisition of the lands covered by the areas included in the final declaration made under section 15 were initiated (and in some case completed) only after satisfaction of the State Government that the lands acquired or to be acquired are needed for carrying out the purpose of the Act.

3. Large area of lands acquired for these projects constitute submergence area and certain areas of such lands have been constituting the area of lands which are already granted or distributed to the project displaced persons. Such position is also obtaining in respect of the other projects notified under the Act. If at this stage the acquisition proceedings are either quashed or the notifications in respect thereof are withdrawn, the lands which are acquired and vest in Government will have to be returned back to the owners thereof. In large number of cases it will not be possible at all to return such lands as they are either submerged or are put to use for resettlement of project displaced persons. This will not only retard the development activities but will also result into huge expenditure over again which will not be in the public interest.

4. Government, therefore, considers it expedient to simplify and streamline with retrospective effect, the procedure under sections 14 and 15 for making declarations thereunder, and also to provide for validation of the final declaration made under section 15, the land acquired or is in the process of the Act and the acts, etc., done in connection with acquisition of lands and their grant or distribution for the purpose of the resettlement of the project displaced persons and for that purpose to immediately amend the Act suitably.

5. As both Houses of the State Legislature are not in session and it is necessary to take immediate action to amend the Maharashtra Resettlement of Project Displaced Persons Act, 1976, for the reasons stated above this Ordinance is promulgated.

K. PRABHAKARA RAO,
Governor of Maharashtra.

Dated the 11th June, 1985.

THE MAHARASHTRA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 29th June, 1985, was published in the *Maharashtra Govt. Gazette*, (Ext.), Part IV, dated June 29, 1985.

MAHARASHTRA ACT NO. IX OF 1985

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

Whereas it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), for the purpose hereinafter appearing; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Maharashtra Co-operative Societies (Amendment) Act, 1985.**

2. *Amendment of section 18C of Mah. XXIV of 1961.*—In section 18C of the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), in sub-section (2), to clause (e), the following proviso shall be added,

namely :—

“Provided that the period of two years may be extended by the State Government from time to time, so however that the total period does not exceed three years in the aggregate”.

THE MAHARASHTRA ZILLA PARISHADS AND PANCHAYAT SAMATIS (AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 9th July 1985, was published in the *Maharashtra Govt. Gazette. (Ext.)*, Part IV, dated July 9, 1985.

MAHARASHTRA ACT NO. X OF 1985.

An Act further to amend the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

Whereas it is expedient further to amend the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), for the purposes hereinafter appearing ; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 17th day of October 1984.

2. *Amendment of section 46 of Mah. V of 1962.*—In section 46 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), (hereinafter referred to as “the principal Act”), in “the sub-section (1), for the word “seven hundred rupees” the words “one thousand and five hundred rupees” shall be substituted.

3. *Insertion of section 47A in Mah. V of 1962.*—After section 47 of the principal Act, the following section shall be inserted, namely :—

“47A. *Honorarium, other facilities including leave of absence to Vice-President and consequential provisions.*—(1) Subject to the provisions of sub-section (5), there shall be paid to the Vice-President an honorarium of one thousand and two hundred rupees per month.

(2) The Vice-President may be provided without payment of rent the use of furnished residential accommodation or subject to such rules as the State Government may make in this behalf, such house rent allowance in lieu thereof as may be deemed suitable by the *Zilla Parishad*, and shall be given such travelling and other allowances as may be prescribed by the State Government.

(3) The Vice-President shall not be disqualified for being chosen as, or for being, a Councillor or a member of any committee by reason only that he is in receipt of an honorarium or of any allowances or amenities under this section.

(4) The Vice-President may remain absent for a period not exceeding thirty days in a year without permission, and he may be granted leave of absence for a period exceeding thirty days and not exceeding ninety days in a year in the aggregate by the Standing Committee and for any period exceeding ninety days by the State Government ; but no leave exceeding one hundred and eighty days in any one year shall be granted.

(5) The Vice-President shall not be entitled—

(a) to any honorarium during any period of absence exceeding

thirty days in a year under sub-section (4) ; and

(b) to any honorarium, allowances or other facilities including leave of absence, also as the Chairman of any of the Committees.

(6) Nothing in clause (a) of sub-section (5) shall apply when a Vice-President is absent for a period not exceeding ninety days during his term of office on ground of illness duly certified by such medical authority as the State Government may specify in this behalf.

Explanation —For the removal of doubt it is hereby declared that the rules, if any, in force immediately before the 17th day of October 1984 in respect of the matters referred to in sub-section (2) as applicable to the Chairmen of the Committees shall continue to apply to the Vice-President until fresh rules are made in that behalf".

4 *Amendment of section 69 of Mah. V of 1962.*—In section 69 of the principal Act, in sub-section (1), for the words "five hundred rupees and two hundred and fifty rupees" the words "one thousand rupees and eight hundred rupees" shall be substituted—

5. *Amendment of section 84 of Mah. V of 1962.*—In section 84 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Subject to the provisions of section 85, each of the Chairmen (other than the Vice-President) referred to in section 83 shall get a consolidated honorarium of one thousand rupees per month." ;

(b) in sub-section (2), the portion beginning with the words "The Vice-President shall be" and ending with the words "elected as Vice-President." shall be deleted.

6. *Amendment of section 274 of Mah. V of 1962.*—In section 274 of the principal Act, in sub-section (2),—

(a) in clause (viii-a) after the word and figures "sections 46," the figures and letter "47," shall be inserted ;

(b) for clause (ix), the following clause shall be substituted, namely :—

"(ix) under sub-section (2) of section 45 and under sub-section (2) of section 47A, the travelling and other allowances to be given to the President and the Vice-President ;",

THE MAHARASHTRA ZILLA PARISHADS AND PANCHAYAT SAMITIS (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 9th July 1985, was published in the *Maharashtra Government Gazette*, Extra. Part IV, dated 9th July, 1985.

MAHARASHTRA ACT NO. XI OF 1985

An Act further to amend the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

Whereas it is expedient further to amend the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), for the purposes hereinafter appearing ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 1985.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Substitution of sections 125 and 126 of Mah. V of 1962.*—For sections 125 and 126 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), (hereinafter referred to as “the principal Act”), the following sections shall be substituted, namely :—

“125. *Sanction for undertaking works or development schemes.*—(1) No works or development schemes, in relation to expenditure which is to be made, either from the district fund or a block grant, shall be executed, except with the previous sanction of such authorities or officers as may be prescribed by rules.

(2) The rules made for this purpose shall also prescribe the limits of non-recurring and recurring expenditure upto which each such authority or officer may accord the sanction.

(3) The State Government shall be competent to vary the prescribed limits, from time to time, by notification published in the Official Gazette, provided that where the limits are so increased, the increased limits shall not be more than twice the limits prescribed by the rules.

126 *Contracts for works or development schemes.*—(1) No tenders or contracts for executing any works or development schemes duly sanctioned, for being undertaken, either from the district fund or a block grant, shall be accepted or made, except with the previous sanction of such authorities or officers as may be prescribed by rules.

(2) The rules made for this purpose shall also prescribe the limits of non-recurring expenditure upto which each such authority or officer may accord the sanction.

(3) The State Government shall be competent to vary the prescribed limits, from time to time, by notification published in the Official Gazette, provided that where the limits are so increased, the increased limits shall not be more than twice the limits prescribed by the rules.”

3. *Substitution of section 128 of Mah. V of 1962.*—For section 128 of the principal Act, the following section shall be substituted, namely :—

“128. *Power of Zilla Parishad to acquire and lease, sell or transfer property*—(1) A Zilla Parishad may, for the purposes of any of its functions.—

(a) acquire and hold property, both movable and immovable, whether within or without the limits of the District ; or

(b) lease, sell or otherwise transfer, any movable or immovable property, which vests, or may be vested, in, or may be acquired by it :

Provided that no acquisition, lease, sale or other transfer of any such properties shall be valid, except with the previous sanction of such authority or officer as may be prescribed by rules.

(2) The rules made for this purpose shall also prescribe the limits of the value or consideration upto which and the subject in relation to which, each such authority or officer may accord the sanction.

(3) The State Government shall be competent to vary the prescribed limits, from time to time, by notification published in the Official Gazette, provided that where the limits are so increased, the increased limits shall not be more than twice the limits prescribed by the rules.”

4. *Amendment of section 274 of Mah. V of 1962.*—In section 274 of the principal Act, in sub-section (2),—

PART VI] THE DISSOLUTION OF OSMANABAD AND PARBHANI ZILLA PARISHADS 51
AND TEMPORARY POSTPONEMENT OF ELECTIONS AND MAHARASHTRA
ZILLA PARISHADS AND PANCHAYAT SAMITIS (AMENDMENT)
ACT, 1985

(a) after clause (xx), the following clause shall be inserted, namely :—

“(xx-a) under section 125, prescribing the authorities and officers competent to accord previous sanction for undertaking works and development schemes and the limits of expenditure upto which such authorities or officers may accord sanction ;

(xx-b) under section 126, prescribing the authorities and officers competent to accord previous sanction for accepting tenders and making contracts and the limits of expenditure upto which such authorities or officers may accord sanction ;

(xx-c) under section 128, prescribing the authorities and officers competent to accord previous sanction for a acquisition or transfer of property and the limits of value or consideration and the subjects in relation to which authorities or officers may accord sanction ;” ;

(b) the existing clause (xx-a) shall be renumbered as clause (xx-d)

5. *Deletion of Third Schedule to Mah. V of 1962* —The Third Schedule to the principal Act shall be deleted.

THE DISSOLUTION OF OSMANABAD AND PARBHANI ZILLA
PARISHADS AND TEMPORARY POSTPONEMENT OF ELEC-
TIONS AND THE MAHARASHTRA ZILLA PARISHADS AND
PANCHAYAT SAMITIS (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 9th July 1985, was published in the *Maharashtra Govt. Gazette (Ext.)*, Part IV, dated 9th July, 1985.

MAHARASHTRA ACT NO. XII OF 1985.

An Act further to amend the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980 and the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961

Whereas under section 3 of the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980 (Mah XIX of 1980), the Osmanabad Zilla Parishads and the Parbhani Zilla Parishad were dissolved on the 26th September 1980 and the general elections to these bodies and to the Panchayat Samitis in these Districts stood postponed upto, and inclusive of the 30th June 1985 or such earlier date as the State Government may, by notification in the Official Gazette, specify ;

And Whereas by Government Notification, Rural Development Department, No ZPE. 1081/CR-395/XXXVII, dated the 27th April 1981 read with Government Notification, Rural Development Department, No. SPE. 1382/CR-511/XXXVII, dated the 28th June, 1982, Government Notifications, Rural Development Department, No. ZPE. 1083/CR-561/06, dated the 24th June 1983 and the 26th June 1984 issued under clause (b) of sub-section (2) of section 3 of the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980 (Mah. XIX of 1980) the Chief Executive Officers of the Osmanabad Zilla Parishads and the Parbhani Zilla Parishad have been appointed to exercise all powers and to perform all duties of their respective Zilla Parishads and Panchayat Samitis, the Standing Committee, Subjects Commit-

tees and others Committee upto, and inclusive of, the 30th June 1985 or such earlier date as the State Government may, by notification in the Official Gazette, specify;

And Whereas due to widespread scarcity conditions prevailing in the State the entire Government machinery was required to be mobilised for relief works especially in rural areas;

And Whereas in view of the proposed reorganisation of talukas and villages in the Vidarbha area, it was considered administratively convenient to hold elections to all Zilla Parishads at one and the same time;

And Whereas the villageswise 1981 census figures in respect of all the villages in the State had not been published;

And Whereas in view of the objections received in respect of the finalisation of Electoral Division Rules and Panchayat Samitis Electoral Colleges Rules, it was considered expedient to adopt the figures of 1971 census till the relevant figures for the first census taken after the year 2000 have been published;

And Whereas for the reasons stated above it was not possible to hold general elections to the Osmanabad and Parbhani Zilla Parishads and Panchayat Samitis under them before the 30th June 1985;

And Whereas it was necessary to provide for further postponement of general elections to the Osmanabad and Parbhani Zilla Parishad and Panchayat Samitis under them upto, and inclusive of the 15th December 1985 or such earlier date as the State Government may, by notification in the Official Gazette, specify in this behalf and for that purpose further to amend the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980 (Mah. XIX of 1980), and also the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), immediately;

And Whereas both Houses of the State Legislature were not in session;

And Whereas Shri Konda Madhava Reddy, discharging the functions of the Governor of Maharashtra, was satisfied that circumstances existed with rendered it necessary for him to take immediate action further to amend the Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980 (Mah. XIX of 1980), and the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), and for that purpose promulgated the Dissolution of Ormanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Ordinance, 1985 (Mah. Ord. IV of 1985), on the 10th day of May 1985;

And whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-sixth year of the Republic of India as follows:—

1 *Short title and commencement.*—(1) This Act may be called **Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 1985.**

(2) It shall be deemed to have come into force on the 10th day of May, 1985.

2 *Amendment of section 1 of Mah. XIX of 1980.*—In section 1 of the

Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Elections Act, 1980 (Mah. XIX of 1980) (hereinafter referred to as "the principal Act"), in sub-section (3), for the words, figures and letters "the 30th June, 1985" the words, figures and letters "the 15th December, 1985" shall be substituted.

3. *Amendment of section 3 of Mah. XIX of 1980.*—In section 3 of the principal Act, in sub-section (2), in clause (b), for the words, figures and letters "the 30th June, 1985" the words, figures and letters "the 15th December, 1985" shall be substituted.

4. *Amendment of section 2 of Mah. V of 1962.*—In section 2 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), (hereinafter referred to as "the said Act"), for clause (20A), the following clause shall be substituted, namely :—

"(20A) "population" means the population as ascertained in the 1971 census until the relevant figures for the first census taken after the year 2000 have been published ;"

5. *Amendment of section 12 of Mah. V of 1962.*—In section 12 of the said Act, in sub-section (2), the words "and periodicity of rotation" shall be deleted.

6. *Amendment of section 58 of Mah. V of 1962.*—In section 58 of the said Act, in sub-section (1), in clause (a-a), the words "and periodicity of rotation" shall be deleted.

7. *Amendment of section 274 of Mah. V of 1962.*—In section 274 of the said Act, in sub-section (2),—

(a) in clause (ii), the word "and periodicity of rotation" shall be deleted ;

(b) in clause (xiii), the words "and periodicity of rotation" shall be deleted.

8. *Repeal of Mah. Ord. IV of 1985 and saving.*—(1) The Dissolution of Osmanabad and Parbhani Zilla Parishads and Temporary Postponement of Election and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Ordinance, 1985, (Maharashtra Ordinance IV of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification issued or rules made) under the principal Act or the said Act, as amended by said Ordinance shall be deemed to have been done, taken issued or made, as the case may be, under the principal Act or the said Act as amended by this Act.

THE MAHARASHTRA RESETTLEMENT OF PROJECT DISPLACED PERSONS (AMENDMENT AND VALIDATION) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the President on the 24th July, 1985, was published in the *Maharashtra Govt. Gazette*, Part IV, dated August 1, 1985:

MAHARASHTRA ACT NO. XIII OF 1985.

An Act further to amend the Maharashtra Resettlement of Project Displaced Persons Act 1976 and to make certain validating provisions.

Whereas, both House of the State Legislature were not in session ;

And whereas, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to amend the Maharashtra Resettlement of Project Displaced Persons Act, 1976. (Mah XLI of 1976), for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Ordinance, 1985 (Mah Ord. VI of 1985), on the 11th June 1985.

And Whereas, it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Act, 1985.**

(2) It shall be deemed to have come into force on the 11th June 1985.

2. *Amendment of section 14 of Mah. XLI of 1976.*—In section 14 of the Maharashtra Resettlement of Project Displaced Person Act 1976 (Mah. XLI of 1976) (hereinafter referred to as “the principal Act”), for sub-section (2), the following sub-section shall be substituted, and shall be deemed always to have been substituted, namely :—

“(2) The declaration under sub-section (1) shall call upon the persons interested in the land to make (if any) objections to, and suggestion for, the inclusion of any land in the area referred to in clause (a) or clause (b) of sub-section (1) and send them to the Collector or Deputy Director of Resettlement (Land) within a period of not less than thirty days as may be specified in the notification”.

3. *Amendment of section 15 of Mah. XLI of 1976.*—In section 15 of the principal Act, in sub-section (1) for the portion beginning with the words “The State Government shall” and ending with the words “further inquiry as it may think fit,” the following shall be deemed always to have been substituted namely :—

“The Collector and Deputy Director of Resettlement (Land) shall with all reasonable despatch, forward the objections and suggestion, if any, received by him under sub-section (2) of section (14), together with his report in respect thereof to the State Government and, on considering the report and the objections and suggestions, if any, as also the suggestions, if any, received by it under sub-section (3) of section 14, the State Government shall.”.

4. *Validation of final declaration issued under section 15, and of acquisition of land under section 16 of Mah. XLI of 1976.*—(1) Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court, every final declaration made or purporting to have been made under section 15 of the principal Act before the commencement of the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Act, 1985 (Mah. XIII of 1985), shall be, and shall be deemed always to have been, valid and effective in accordance with law; and no such declaration shall be called in question in any court of law merely on the ground that the provisions of sections 13 and 14 of the principal Act have not been complied with, in part or in whole, or that an opportunity of being heard was not given to the persons affected by such declaration.

ration, or that no further enquiry was made by the State Government, before making such declaration.

(2) Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court,—

(a) no acquisition of land or rights in or over land made or purporting to have been made under, and for the purposes of, the principal Act before the commencement of the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Act 1985 (Mah. XIII of 1985), and no action taken or thing done (including any order made, agreement entered into, or any notice or notification published) in connection with such acquisition and the grant or distribution of such land for resettlement of any displaced person shall be deemed to be invalid, or ever to have become invalid merely on the ground,—

(i) that before making the final declaration under section 15 of the principal Act, the provisions of sections 13 and 14 of the principal Act have not been complied with, in part or in whole, or that an opportunity of being heard was not given to the persons affected by such declaration, or that no further enquiry was made by the State Government; and

(ii) that before or after publishing any notification in connection with the acquisition of land for the purposes of the principal Act in accordance with the provisions of section 16 of the principal Act and the Land Acquisition Act, 1894 (I of 1894) the provisions of sections 19, 20, 21 or any other provisions of the principal Act have not been complied with, in part or in whole;

(b) any acquisition in pursuance of notification issued under the provisions of section 16 of the principal Act and the Land Acquisition Act, 1894 (I of 1894), before the commencement of the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Act, 1985 (Mah. XIII of 1985) may be made after such commencement and no such acquisition and no action taken or thing done (including any order made agreement entered into or notice or notification published, or grant or distribution of such land made for resettlement of displaced persons) whether before or after such commencement, in connection with such acquisition or grant or distribution of land shall be deemed to be invalid merely on the grounds referred to in clause (a) or any of them;

(c) no suit or legal proceeding shall be maintained or continued in any court on the grounds referred to in clause (a) or any of them

5. *Repeal of Mah. Ord. VI of 1985 and saving.*—(1) The Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Ordinance, 1985 (Mah. Ord. VI of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be, under the principal Act, as amended by this Act.

THE MAHARASHTRA APPROPRIATION ACT, 1985

The following Act of Maharashtra Legislature, having been assented to by the Governor on the 28th July, 1985, was published in the *Maharashtra Government Gazette*, Part IV, dated August 1, 1985.

MAHARASHTRA ACT NO. XIV OF 1985

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March 1986.

Whereas by virtue of Article 204 of the Constitution of India it is necessary to provide for the passing of an Appropriation Act for the appropriation of sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March 1986 ; and for the purpose of authorising payment of the said sums ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. This Act may be called the **Maharashtra Appropriation Act, 1985.**

(Text omitted)

THE BOMBAY SALES TAX (AMENDMENT) ACT, 1985.

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 1st August, 1985, was published in the *Maharashtra Govt. Gazette Extraordinary*, Part IV, dated August 8, 1985.

MAHARASHTRA ACT NO. XV OF 1985.

An Act further to amend the Bombay Sales Tax Act, 1959.

Whereas, both Houses of the State Legislature were not in session ;

And Whereas, Shri Konda Madhava Reddy, discharging the functions of the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Sales Tax Act, 1959, (Bom. LI of 1959) for the purposes hereinafter appearing ; and, therefore, promulgated the Bombay Sales Tax (Amendment) Ordinance, 1985, on the 24th May, 1985 (Mah. Ord. V of 1985) ;

And whereas, it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short Title and commencement*—(1) This Act may be called the **Bombay Sales Tax (Amendment) Act, 1985.**

(2) It shall be deemed to have come into force on the 24th May, 1985,

2. *Amendment of section 2 of Bom. LI of 1959.*—In section 2 of the Bombay Sales Tax, 1959 (Bom. LI of 1959) (hereinafter referred to as the principal Act),—

(a) after clause (12), the following clauses shall be inserted, namely :—

“(12-A) “Edible Oil Unit” means an Eligible Unit engaged in—

(i) delinting, decorticating or processing of groundnuts or other oilseeds ;

(ii) crushing of groundnuts or other oilseeds and manufacture of edible oil ;

(iii) refining of edible oil ; or

(iv) hydrogenation of edible oil ;—

(12-B) “Eligibility Certificate” means a certificate granted by SICOM or the relevant Regional Development Corporation under the Package Scheme of Incentives designed by the State Government, for promoting industrialization of the backward areas of the State ;

(12-C) “Eligible Unit” means the Industrial Unit in respect of which an Eligibility Certificate is issued : ”

(b) after clause (25), the following clause shall be inserted, namely :—

“(25-A) “relevant Regional Development Corporation :—”

(a) “in relation to the Vidarbha area of the State, means the Development Corporation of Vidarbha Limited, a Government Company registered under the Companies Act, 1956 ;

(b) “in relation to the Konkan revenue division excluding the City of Bombay and the Bombay Suburban Districts, means the Development Corporation of Konkan Limited, a Government Company registered under the Companies Act, 1956 (I of 1956) ;

(c) “in relation to the Marathwada area of the State, means the Marathwada Development Corporation Limited, a Government Company registered under the Companies Act, 1956 (I of 1956) ;

(d) “in relation to the rest of Maharashtra, means the Western Maharashtra Development Corporation Limited, a Government Company registered under the Companies Act, 1956 (I of 1956) ;”

(e) after clause (30), the following clause shall be inserted, namely :—

“(30-A) “SICOM” means the State Industrial and Investment Corporation of Maharashtra Limited, a Government Company registered under the Companies Act, 1956 (I of 1956) ;”

3. *Amendment of section 36 of Bom. LI of 1959.*—In section 36 of the principal Act, in sub-section (3), in the second proviso, for the portion beginning with the words “no penalty” and ending with the words “Development Corporation” the following shall be substituted, namely :—

- “no penalty under this section shall be payable by a dealer to whom an Eligibility Certificate has been granted”.

4. *Amendment of section 36 of Bom. LI of 1959.*—In section 36 of the principal Act in sub-section (4), in the second proviso, the portion beginning with the words “by the State Industrial” and ending with the words “Maharashtra State” shall be deleted.

5. *Insertion of section 41A in Bom. LI of 1959.*—After section 41 of the principal Act, the following section shall be inserted, namely :—

“41A. *Edible Oil Unit not to be eligible for exemption from payment of tax.*—Notwithstanding anything contained in this Act or in any judgment decree or order of any Court or Tribunal to the contrary on and after the date of commencement of the Bombay Sales Tax (Amendment) Act, 1985 (Mah. XV of 1985) (hereinafter in this section referred to as “the commencement date”), the Eligibility Certificate granted to any Registered dealer of an Edible Oil Unit in accordance with the provisions of any Package Scheme of Incentives shall cease to have any effect in relation to the exemption from payment of tax under this Act or under the Central Sales Tax Act 1956 (LXXIV of 1956) and the Certificate of Entitlement issued in favour of such Registered dealer by the Commissioner under entry 136 of the Schedule to the notification issued under section 41 shall stand automatically cancelled on the commencement date and such Registered dealer shall not be entitled to claim any further benefit of exemption from payment of such tax under the Eligibility Certificate or the Certificate of Entitlement on and after the commencement date, and he shall surrender the Certificate of Entitlement together with all the unused Form BC which have been attested by the Sales Tax authorities to the Commissioner forthwith and in any case on or before the 31st day of August 1985, unless he has already surrendered the same earlier.”.

6. *Amendment of section 63 of Bom. LI of 1959.*—In section 63 of the principal Act,—

(a) in sub-section (10), after clause (d) the following clause shall be inserted, namely :—

“(d-1) fails without sufficient cause to surrender the Certificate of Entitlement together with all the unused Form BC as required under section 41A, or” ;

(b) in sub-section (13) after the brackets and letter “(d),” the brackets, letter and figures “(d-1),” shall be inserted.

7. *Amendment of section 69 of Bom. IL of 1969.*—In section 69 of the principal Act in sub-section (1), after the bracket and letter “(d),” the brackets, letter and figure “(d-1),” shall be inserted.

8. *Repeal of Mah. Ord. V of 1985 and consequences of such repeal.*—

(1) The Bombay Sales Tax (Amendment Ordinance, 1985 (Mah. Ord. V of 1985) is hereby repealed.

(2) It is hereby declared that notwithstanding anything contained in section 7 of the Bombay General Clauses Act, 1904, on such repeal the following consequences shall ensue,—

(a) the Eligibility Certificate and the Certificate of Entitlement issued to any registered dealer of the Eligible Unit other than the Registered dealer of Edible Oil Unit shall not be deemed to have been cancelled ; and

(b) where the Certificate of Entitlement and the unused Form BC are surrendered by any Registered dealer of the Eligible Unit other than Registered dealer of Edible Oil Unit the same shall be restored to the Registered dealer, who has surrendered the same ;

(c) the Registered dealer of the Eligible Unit other than the Registered dealer of Edible Oil Unit shall have been entitled to claim the same benefits of exemption of sales tax to which he was entitled before the commencement of the said Ordinance ;

(d) Any Sales Tax on sale of finished goods recovered by any Registered dealer of the Eligible Unit other than the Registered dealer of Edible Oil Units during the period from the commencement of the said Ordinance till the publication of this Act in the *Official Gazette*, shall be paid into Government Treasury alongwith the return and the tax so paid shall stand forfeited to the State Government and thereupon the provisions of sub-section (6) of section 38 mutatis mutandis apply to the tax so forfeited.

THE MAHARASHTRA ACT ABOLITION OF SUBSISTING PROPRIETARY RIGHTS TO MINES AND MINERALS IN CERTAIN LANDS ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the President on the 1st August 1985, was published in the *Mahashirra Govt Gazette, (Extra.)*, Part IV, dated August 8, 1985

MAHARASHTRA ACT NO. XVI OF 1985

An Act to abolish subsisting proprietary rights to mines and minerals in any lands under the Land Tenure Abolition Laws or such other laws for the time being in force by acquisition thereof and to provide for matters

connected therewith.

Whereas pursuant to the national policy of bringing the actual cultivator into direct relation with the Government, series of land tenure abolition laws for abolition of the intermediary rights, Jagirs and inam tenures have had been enacted, the rights of Inamdars and Jagirdars to mines and minerals have had been specifically saved, thereby allowing such existing rights to survive particularly where the inams are grants of soil ;

And Whereas the mines and minerals available in these inam lands are being exploited in the State by such Inamdars for individual gains without being liable to pay any royalty to the State Government and in a manner highly detrimental and prejudicial to public interest ;

And Whereas with a view to prevent such exploitation of mines and minerals for individual gains by a few Inamdars and also to prevent the huge loss of royalty by the State Government and to give effect to the policy of the State Government towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

And Whereas for the aforesaid purposes it is considered necessary to abolish subsisting proprietary rights to mines and minerals in any lands under the Land Tenure Abolition Laws or such other laws for the time being in force by acquisition thereof and to provide for matters connected therewith ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1 *Short title and extent.*—(1) This Act may be called the **Maharashtra Abolition of Subsisting Proprietary Rights to Mines and Minerals in certain Lands Act, 1985.**

(2) It extends to the whole of the State of Maharashtra.

2. *Declaration.*—It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India and the acquisition therefor of the subsisting proprietary rights to mines and minerals referred to in section 4.

3. *Definition.*—In this Act, unless the context otherwise requires,—

(a) “alienee” means an Inamdar, Jagirdar or Estate Holder as defined in the Land Tenure Abolition Laws or such other laws for the time being in force, or a person who holds any subsisting right in any sub soil in any land under any settlement, kaul, grant, sanad or order, any judgment, order or decree of a Court or Tribunal or any law or instrument for the time being in force, but shall not include any lawful lessee holding lease-hold rights in respect of any mines or minerals on the date of commencement of this Act ;

(b) “Code” means the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966).

(c) “Competent Authority” means the Collector of the District, and includes any officer, not below the rank of Deputy Collector, to whom the powers and functions of the Competent Authority may be entrusted

by the Collector;

(d) "Land Tenure Abolition Laws" means the Salsette Estate (Land Revenue Exemption Abolition) Act, 1951 (Bom. XLVII of 1951), the Bombay Personal Inams Abolition Act, 1952 (Bom. XLII of 1953), the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bom. XXXIX of 1954), the Bombay Merged Territories Miscellaneous Alienation Abolition Act 1955 (Bom. XXII of 1955), and the Bombay City, (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969 (Mah. XLIV of 1969);

(e) "prescribed" means prescribed by rules made under this Act;

(f) "sub-soil rights" means any rights to mines and minerals found or likely to be found, whether on surface or underground of any land;

(g) words and expressions used but not defined in this Act, shall have the meanings assigned to them in the Code.

4. *Vesting of rights of alienees to mines and minerals in the State and consequences thereof.*—Save as otherwise provided in this Act, notwithstanding anything contained in any settlement, kaul, grant, sanad or order, any judgement, order or decree of a Court or Tribunal or in any law or instrument for the time being in force, on the date of commencement of this Act, all subsisting rights to mines and minerals vesting in any alienee in any land shall pass from such person to and vest in the State Government, free of any encumbrances:

Provided that, the rights of any lessee holding on lease the sub-soil rights on the date of commencement of this Act, either from alienee or from Government, shall not be affected by this section except that on and from the said date if he is a lessee holding from alienee he shall be deemed to be a lessee holding from Government, and all the obligations to the alienee shall be deemed to have passed on to Government.

5. *Payment of amount for acquisition of rights to mines and minerals.*—

(1) Any alienee having any subsisting sub-soil right in respect of any land immediately before the date of commencement of this Act shall, subject to the following provisions of this section, be entitled—

(a) to receive an amount equivalent to three times the assessment fixed for the land, in which there is a mine or there are minerals, but the mine is not worked during a period of three years immediately preceding the date of commencement of this Act;

(b) where any mine was worked at any time during a period of three years immediately preceding the date of commencement of this Act, to receive an amount equivalent to twenty times the assessment fixed for the land.

(2) Every alienee entitled to the amount under sub-section (1) shall apply in writing to the Competent Authority, on or before the 31st December 1985 or such extended date (if any) as the Competent Authority may fix, for determining the amount payable to him under this section.

6. *Procedure for determining the amount to be paid*—(1) On receipt of an application for determination of the amount payable under section 5, the Competent Authority shall make such inquiry as he deems fit. After giving a reasonable opportunity of being heard to the claimant and to prove his claim, the Competent Authority shall make an award determining the amount payable to the claimant, after recording his findings on the

following points :

(a) whether the claimant-alienee proved that any rights to mines and minerals in any land had accrued to him and were subsisting at the date of commencement of this Act, notwithstanding the provisions of any law for the time being in force ;

(b) the area of the land under which there is a mine and what minerals are found therein ;

(c) the area of the land under which there is a working mine and what minerals are found therein ;

(d) the amount, if any, payable to the claimant in accordance with the provisions of this Act ;

(e) where there is a co-sharer, how the amount may be apportioned between the claimant and the co-sharer.

(2) Notwithstanding anything contained in any law for the time being in force, the onus of proving before the Competent Authority—

(a) that the sub-soil rights in any land had accrued to the claimant under any sanad, etc., and the rights continued to subsist at the commencement of this Act, notwithstanding the provisions of any law for the time being in force ; and

(b) that any mines or minerals are found or are being worked in any land or part thereof ;
shall be on the claimant.

7. *Appeal against Competent Authority's award.*—An appeal shall lie against the award of the Competent Authority to the Maharashtra Revenue Tribunal established under Chapter XV of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), notwithstanding anything contained in that Code:

8. *Procedure before Maharashtra Revenue Tribunal.*—(1) The Maharashtra Revenue Tribunal shall, after giving notice to the appellant and the State Government, decide the appeal and record its decision.

(2) In deciding an appeal under this Act, the Maharashtra Revenue Tribunal shall exercise all the powers which a Court has and shall follow the same procedure which a Court follows, in deciding an appeal from a decree or order of an original Court under the Code of Civil Procedure, 1908 (V of 1908).

9. *Limitation.*—Every appeal made under this Act to the Maharashtra Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Competent Authority. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 (XXXVI of 1963), shall apply to the filing of such appeal.

10. *Court fees.*—Notwithstanding anything contained in the Bombay Court-fees Act, 1959 (Bom XXXVI of 1959), every appeal made under this Act to the Maharashtra Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

11. *Finality of award and decision of Revenue Tribunal.*—An award made by the Competent Authority, subject to an appeal to the Maharashtra Revenue Tribunal, and the decision of the Maharashtra Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit or proceedings in any Court.

12. *Inquiries and proceedings to be judicial proceedings.*—All inquiries and proceedings before the Competent Authority and the Maharashtra Revenue Tribunal, under this Act shall be deemed to be judicial proceeding within the meaning of section 193, 219 and 228 of the Indian Penal Code. (XLV of 1860)

13. *Power to make rules.*—(1) The State Government may, by notification in the Official Gazette, make rules for the purposes of giving effect to the provision of this Act, including provisions for imposition of fees for the purposes of this Act.

(2) All rules made under this section shall be subject to the condition of previous publication.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette the rule shall, from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of any thing previously done or omitted to be done under that rule.

14. *Amendment of section 48 of Mah. XLI of 1966.*—In the Maharashtra Land Revenue Code, 1966, (Maharashtra XLI of 1966) in section 48 sub-section (1):—

(a) for the words “Unless it is otherwise expressly provided by the terms of the grant made by the State Government, the right to all minerals” the words “The right to all minerals” shall be substituted;

(b) the proviso shall be deleted.

15. *Repeal of certain enactments.*—On and from the date of commencement of this Act, section 9 of the Bombay Personal Inams Abolition Act, 1952 (Bom. XLII of 1953), section 10 of the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bom XXX-IX of 1954), section 13 of the Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 (Bom. XXII of 1955), and section 9 of the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969 (Mah. XLIV of 1969), and corresponding provision in any such law for the time being in force, shall stand repealed.

16. *Power to remove difficulty.*—If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order do anything, not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

**THE MAHARASHTRA (SECOND SUPPLEMENTARY)
APPROPRIATION ACT, 1985**

The following Act of the Maharashtra Legislature, having been assented to by the Governor, on the 12th August, 1985, was published in the *Maharashtra Govt. Gazette (Ext.)*, Part IV, dated 13th August, 1985.

MAHARASHTRA ACT NO. XVII OF 1985

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March 1986.

Whereas by virtue of article 204 of the Constitution of India, read with article 205 thereof, it is necessary to provide for the passing of an Appropriation Act for the appropriation of further sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March 1986 ; and for the purpose of authorising payment of the said sums ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short-title.*—This Act may be called the **Maharashtra (Second Supplementary) Appropriation Act, 1985.**

(Text omitted)

**THE MAHARASHTRA SALES TAX ON THE TRANSFER OF THE
RIGHT TO USE ANY GOODS FOR ANY PURPOSE ACT, 1985**

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 12th August 1985, was published in the *Maharashtra Govt Gazette Ext.*, Part IV, dated 14th August 1985.

MAHARASHTRA ACT NO. XVIII OF 1985

An Act to levy and collect the tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration in the State of Maharashtra.

Whereas it is expedient to levy and collect the tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration in the State of Maharashtra ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follow :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—This Act may be called the **Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any purpose Act, 1985.**

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) “appointed day” means the date of commencement of this Act ;

(2) “Bombay Sales Tax Act” means the Bombay Sales Tax Act, 1959 ; (Bom. LI of 1959).

(3) “Commissioner” means the person appointed to be the Commis-

sioner of Sales Tax under the Bombay Sales Tax Act ;

(4) "dealer" means any person who whether for commission, remuneration or otherwise transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration ; and includes the State Government or the Central Government which so transfers the right to use such goods and also any society, club or association of persons which so transfers the right to use such goods to its members

Explanation—In respect of the transfer of the right to use cinematographic films or video cassettes, the person who transfers such right to the exhibitor or user and from whom exhibitor or user derives the right to make such use shall be deemed to be the dealer under this clause ;

(5) "goods" means all kinds of moveable property (not being newspapers, or actionable claims or money, or stocks, shares or securities) ;

(6) "person" includes any company or body of individuals, whether incorporated or not, and also a Hindu undivided family, a firm and a local authority ;

(7) "prescribed" means prescribed by rules ;

(8) "registered dealer" means a dealer registered under section 7 ;

(9) "rules" means rules made under this Act ;

(10) "sale" means the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or any other valuable consideration, and the word "sell" with all its grammatical variations and cognate expressions, shall be constructed accordingly.

Explanation.—For the purposes of this clause, the transfer of the right to use any such goods shall be deemed to have taken place in the State of Maharashtra, irrespective of the place where the agreement for such transfer of the right to use such goods is made, and whether the assent of the party is prior or subsequent to such transfer of the right to use any such goods ;

(11) "sale price" means the amount of valuable consideration received or receivable for the transfer of the right to use any goods for any purpose (whether or not for a specified period) ;

(12) "Schedule" means the Schedule appended to this Act ;

(13) "State" means the State of Maharashtra ;

(14) "tax" means a tax payable under this Act ;

(15) "turnover of sales" means the aggregate of the amounts of sale price received or receivable during a year by a dealer in respect of the transfer of the right to use any goods, and includes any advance received by a dealer as a part of sale price ;

(16) "year",—

(a) means the financial year ;

(b) in relation to any particular registered dealer for the purposes of this Act (except sections 5 and 7) means the year by reference to which the accounts of that dealer are ordinarily maintained in his books, but the dealer may by written declaration made by him in this behalf opt for the financial year ;

Provided that, where an option has once been exercised by a registered dealer, he shall not, except with the consent of the Commissioner and upon

such conditions as the Commissioner may determine, make any variation in respect thereof.

CHAPTER II

Incidence and Levy of Tax

3. *Incidence of tax.*—Subject to the provisions contained in this Act and the rules made thereunder a tax shall be leviable on the turnover of sales in respect of—

- (i) the transfer of the right to use any goods agreed to before the appointed day but the right to use is exercised on or after the appointed day;
- (ii) the transfer of right to use any goods agreed to prior to the appointed day, and wherein the right to use has been continued after the appointed day, to the extent of the sale price received or receivable in respect of such use on or after the appointed day; and
- (iii) the transfer of right to use any goods agreed to on or after the appointed day.

4. *Levy of Tax.*—There shall be levied a tax on the turnover of sales in respect of the transfer of the right to use goods specified in the Schedule, at such rate not exceeding fifteen paise in the rupee, as the State Government may, by notification in the *Official Gazette*, specify from time to time.

5. *Liability of dealer.*—(1) Every dealer whose turnover of all sales made during—

(i) the year ending on the 31st day of March, 1985,

(ii) the year commencing on the 1st day of April, 1985,

has exceeded or exceeds the limit of fifty thousand rupees shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act on the turnover of sales on or after the appointed day:

Provided that, a dealer to whom clause (ii) applies and whose turnover of all sales exceeds the limit of fifty thousand rupees after the appointed day shall not be liable to pay tax in respect of sales which take place upto the time when his turnover of sales as computed from the 1st day of April 1985 first exceeds such limit.

(2) Every dealer whose turnover of sales during any year commencing on the 1st day of April, being a year subsequent to the years mentioned in sub-section (1) first exceeds the limits of rupees fifty thousand shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date:

Provided that, a dealer shall not be liable to pay tax in respect of such of the sales as take place during the period commencing on the 1st day of April of the said year upto the time when his turnover of sales as computed from the 1st day of April of the said year first exceeds the limit of rupees fifty thousand.

(3) Every dealer who becomes liable to pay tax under this Act shall continue to be so liable until his registration certificate is duly cancelled and upon such cancellation his liability to pay tax other than tax already levied or leviable shall until his turnover of sales again first exceeds the limit of rupees fifty thousand, cease:

Provided that, where the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of

sales which take place during the period commencing on the date of cessation of liability to tax and ending on the day on which his turnover of sales first exceeds such limit, no tax shall be payable.

6. *Sales tax payable by dealer.*—Subject to the provisions of this Act and the rules made thereunder, there shall be paid by every dealer who is liable to pay tax under this Act, the tax leviable in accordance with section 4 on the turnover of sales in respect of the transfer of the right to use goods specified in the Schedule.

CHAPTER III

Registration

7. *Certificate of Registration.*—(1) No dealer who becomes liable to pay tax under this Act shall sell any goods unless he possesses a valid certificate of registration as provided by this Act :

Provided that it shall be lawful for the dealer to sell or continue to sell any goods if the dealer has applied for such registration within the prescribed time.

(2) Every dealer required to possess a certificate of registration shall apply in such manner, and to such authority, as may be prescribed.

(3) If the authority, after such inquiry as it deems fit, is satisfied that an application for registration is in order, it shall register the applicant and issue to him a certificate of registration in the prescribed form.

(4) The authority may, after considering any information furnished or otherwise called for or received under any provisions of this Act, amend from time to time the certificate of registration.

(5) If any person upon an application made by him has been registered as a dealer under this section, and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax on his sales made from the date on which his registration certificate took effect until it is cancelled notwithstanding that he may not be liable to pay tax under section 5.

(6) Where a registered dealer discontinues sales, or the turnover of sales of a registered dealer has during any year not exceeded the limit of fifty thousand rupees and the dealer applies in the prescribed manner for cancellation of his registration certificate, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.

(7) Where the Commissioner is satisfied that any registered dealer has discontinued sale and has failed to apply under sub-section (6) for cancellation of registration certificate, the Commissioner may after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the registered dealer has discontinued sale :

Provided that, the cancellation of certificate of registration on an application of the dealer or otherwise shall not affect the liability of the dealer to pay tax (including any penalty) due for any period upto the date of cancellation whether such tax (including any penalty) is assessed before or after the date of cancellation.

CHAPTER IV

Certain Provisions of the Bombay Sales Tax Act Applicable

8. *Authorities under Bombay Sales Tax Act empowered to assess, re-*

assess, etc tax under this Act.—(1) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the Bombay Sales Tax Act shall assess, re-assess, collect and enforce payment of tax including any penalty payable by a dealer under this Act as if the tax or penalty payable by such a dealer under this Act is a tax or penalty payable under the Bombay Sales Tax Act and for this purpose they may exercise all or any of the powers they have under the Bombay Sales Tax Act, and the provisions of the Bombay Sales Tax Act relating to returns, assessment, advance payment of tax, rectification, collection, forfeiture, registration of the transferee of any dealer liable to pay tax under this Act, imposition of the tax liability of a dealer on the transferee of, or successor to, such dealer, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, special mode of recovery of tax, appeals, revisions, references, refunds, rebates, penalties, charging or payment of interest, compounding of offences, and the treatment of documents furnished by a dealer as confidential, shall, *mutatis mutandis*, apply accordingly.

(2) All the provisions relating to offences and penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence) of the Bombay Sales Tax Act shall *mutatis mutandis* apply in relation to the assessment, re-assessment, collection and the enforcement of payment of the tax required to be collected under this Act or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax payable under this Act were the tax payable under the Bombay Sales Tax Act.

CHAPTER V Miscellaneous and Rules

9. *Power of State Government to amend Schedule.*—The State Government may, from time to time, by notification in the Official Gazette, amend the Schedule by inserting any entry in respect of the transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and thereupon the Schedule shall stand amended accordingly for the purpose of levy of tax under this Act.

10. *Power to make rules.*—(1) The State Government may make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the power to make rules under sub-section (1) the rules may provide for—

(a) the time within which a dealer shall apply for registration under sub-section (1) of section 7;

(b) the manner in which and the authority to whom an application for registration certificate shall be made under sub-section (2) of section 7;

(c) the form of certificate of registration to be issued under sub-section (3) of section 7;

(d) the manner in which an application shall be made for cancella-

tion of registration certificate under sub-section (6) of section 7; and the authority who shall cancel such registration certificate;

(e) any other matter which is required to be or may be prescribed.

(3) In making any rules the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees and when the offence is a continuing one with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) Rules made under this section shall be, subject to the condition of previous publication :

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(5) Every rule made under this section shall be laid as soon as may be after it is made before each House of State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

SCHEDULE

[See sections 2(12), 4, 6 and 9]

Serial No.	Description
1	The transfer of the right to use cinematographic films or video cassettes.
2.	The transfer of the right to use television sets, video cassette recorders, video cassette players or projectors.
3	The transfer of the right to use plant, machiney, equipment including office equipment, computers, instruments or appliances.
4	The transfer of the right to use air-conditioning equipment, air-conditioners, deep freezers, cold storage plants, humidification plants or dehumifiers.
5.	The transfer of the right to use vehicles, such as trucks, tractors buses, mini-buses, jeeps, cars or three-wheelers
6	The transfer of the right to use aircraft, ships, boats or vessels.

THE MAHARASHTRA SALES TAX ON THE TRANSFER OF PROPERTY IN GOODS INVOLVED IN THE EXECUTION OF WORKS CONTRACTS ACT, 1985.

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 12th August 1985, was published in the *Maharashtra Govt Gazette*, Part IV, dated August 12, 1985.

MAHARASHTRA ACT NO. XIX OF 1985.

An Act to levy and collect the tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts in the State of Maharashtra.

Whereas it is expedient to levy and collect the tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts in the State of Maharashtra; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

CHAPTER I Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Maharashtra Sales Tax on the transfer of property in goods involved in the execution of Works Contracts Act, 1985.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires, —

(1) "appointed day" means the date of commencement of this Act ;

(2) "Bombay Sales Tax Act" means the Bombay Sales Tax Act, 1959 (Bom. LI of 1959) ;

(3) "Commissioner" means the person appointed to be the Commissioner of Sales Tax under the Bombay Sales Tax Act ;

(4) "dealer" means any person who, whether for valuable consideration, commission, remuneration or otherwise, transfers Property in goods involved in the execution of works contract and includes the State Government and the Central Government which so transfer such property in goods, and any society, club, or association of persons which so transfers the property in goods to its members ;

(5) "goods" means every kind of property (whether as goods or in some other form) involved in the execution of a works contract ;

(6) "person" includes any company or body of individuals whether incorporated or not and also a Hindu undivided family, a firm and a local authority ;

(7) "prescribed" means as prescribed by rules ;

(8) "Registered dealer" means a dealer registered under section 7 ;

(9) "rules" means rules made under this Act ;

(10) "sale" means a transfer of property in goods involved in the execution of works contract, for cash, deferred payment or any other valuable consideration ; and the word "sell" with all its grammatical variations and cognate expressions, shall be construed accordingly..

Explanation.—For the purposes of this clause, the transfer of property in goods involved in the execution of a works contract shall be deemed to have taken place in the State of Maharashtra, if the goods so transferred are within that State, at the time of their use, application or appropriation for the execution of the works contract, irrespective of the place where the agreement for works contract is made, and whether the consent of the other party, is prior or subsequent to such use, application or appropriation ;

(11) "sale price" means the amount of valuable consideration received or receivable for the transfer of property in goods involved in the execution of a works contract ;

(12) "Schedule" means the Schedule appended to this Act ;

(13) "State" means the State of Maharashtra ;

(14) "Tax" means a tax payable under this Act ;

(15) "turnover of sales" means the aggregate of the amounts of sale price received or receivable by a dealer in respect of any transfer of goods involved in the execution of any works contract, whether executed fully or partly during a given year, and includes any advance received by a dealer as a part of sale price ;

(16) "works contract" means a contract for carrying out any of the works specified in the Schedule and includes a contract or sub-contract whether executed fully or partly or abandoned or terminated before completion, and also includes a sub-contract for any such works ;

(17) "year",—

(a) means the financial year ;

(b) in relation to any particular registered dealer for the purposes of this Act (except section 5 and 7) means the year by reference to which the accounts of that dealer are ordinarily maintained in his books, but the dealer may by written declaration made by him in this behalf opt for the financial year ;

Provided that, where an option has once been exercised by a registered dealer, he shall not, except with the consent of the Commissioner and upon such conditions as the Commissioner may determine, make any variation in respect thereof.

CHAPTER II

Incidence And Levy of Tax

3. *Incidence of Tax.*—Subject to the provisions contained in this Act, a tax shall be leviable on the turnover of sales in respect of—

(i) works contract commenced for execution on or after the appointed day, whether such contract was entered into prior to the appointed day or on or after the appointed day ;

(ii) works contract execution of which commenced prior to the appointed day, to the extent of the sale price received or receivable in respect of such contract on or after the appointed day, irrespective of the extent of work already carried out prior to the appointed day.

4. *Levy of Tax.*—There shall be levied a tax on the turnover of sales in respect of the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract at such rate not exceeding fifteen paise in the rupee as the State Government may, by notification in the *Official Gazette*, specify from time to time, after deducting from such turnover, the turnover of sales of a dealer registered under this Act in respect of sub-contract executed separately for work which forms part of works contract :

Provided that, no such deduction shall be allowed unless the dealer claiming the deduction produces a bill or cash memorandum of the sub-contractor containing a certificate that his registration certificate was in force on the date of the sale of goods by him. Such certificate shall be signed by the dealer who is the sub-contractor or a person duly authorised

by him in this behalf :

Provided further that, where the turnover of the dealer claiming deduction in any year is not sufficient to cover the deduction, it shall be allowed to the extent of the turnover of the dealer in that year, and the balance shall be carried forward to the following year.

Explanation.—For the purpose of this section, the deduction shall be computed separately in relation to each work contract.

5. *Liability of dealer.*—(1) Every dealer whose turnover of all sales made during—

(i) the year ending on the 31st day of March, 1985,

(ii) the year commencing on the 1st day of April, 1985,

has exceeded or exceeds the limit of fifty thousand rupees shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act on the turnover of sales on or after the appointed day :

Provided that, a dealer to whom clause (ii) applies and whose turnover of all sales exceeds the limit of fifty thousand rupees after the appointed day shall not be liable to pay tax in respect of sales which take place upto the time when his turnover of sales as computed from the 1st day of April 1985 first exceeds such limit.

(2) Every dealer whose turnover of sales during any year commencing on the 1st day of April, being a year subsequent to the years mentioned in sub-section (1) first exceeds the limits of rupees fifty thousand shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date :

Provided that, a dealer shall not be liable to pay tax in respect of such of the sales as take place during the period commencing on the 1st day of April of the said year upto the time when his turnover of sales as computed from the 1st day of April of the said year first exceeds the limit of rupees fifty thousand

(3) Every dealer who becomes liable to pay tax under this Act shall continue to be so liable until his registration certificate is duly cancelled and upon such cancellation his liability to pay tax other than tax already levied or leviable shall until his turnover of sales again first exceeds the limit of rupees fifty thousand, cease :

Provided that, where the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of sales which take place during the period commencing on the date of cessation of liability to tax and ending on the day on which his turnover of sales first exceeds such limit, no tax shall be payable.

6. *Sales tax payable by dealer* —Subject to the provisions of this Act and the rules made thereunder, there shall be paid by every dealer who is liable to pay tax under this Act, the tax leviable in accordance with section 4 on the turnover of sales in respect of the transfer of the right to use goods specified in the Schedule.

CHAPTER III

Registration

7. *Certificate of Registration.*—(1) No dealer who becomes liable to pay tax under this Act shall sell any goods unless he possesses a valid

certificate of registration as provided by this Act :

Provided that it shall be lawful for the dealer to sell or continue to sell any goods if the dealer has applied for such registration within the prescribed time.

(2) Every dealer required to possess a certificate of registration shall apply in such manner, and to such authority, as may be prescribed.

(3) If the authority, after such inquiry as it deems fit, is satisfied that an application for registration is in order, it shall register the applicant and issue to him a certificate of registration in the prescribed form.

(4) The authority may, after considering any information furnished or otherwise called for or received under any provisions of this Act, amend from time to time the certificate of registration.

(5) If any person upon an application made by him has been registered as a dealer under this section and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax on his sales made from the date on which his registration certificate took effect until it is cancelled notwithstanding that he may not be liable to pay tax under section 5.

(6) Where a registered dealer discontinues sales, or the turnover of sales of a registered dealer has during any year not exceeded the limit of fifty thousand rupees and the dealer applies in the prescribed manner for cancellation of his registration certificate, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.

(7) Where the Commissioner is satisfied that any registered dealer has discontinued sale and has failed to apply under sub-section (6) for cancellation of registration certificate, the Commissioner may after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the registered dealer has discontinued sale :

Provided that, the cancellation of certificate of registration on an application of the dealer or otherwise shall not affect the liability of the dealer to pay tax (including any penalty) due for any period upto the date of cancellation whether such tax (including any penalty) is assessed before or after the date of cancellation.

CHAPTER IV

Certain Provisions of the Bombay Sales Tax Act Applicable

8. *Authorities under Bombay Sales Tax Act empowered to assess, re-assess, etc tax under this Act.*—(1) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the Bombay Sales Tax Act shall assess, re-assess, collect and enforce payment of tax including any penalty payable by a dealer under this Act as if the tax or penalty payable by such a dealer under this Act is a tax or penalty payable under the Bombay Sales Tax Act and for this purpose they may exercise all or any of the powers they have under the Bombay Sales Tax Act, and the provisions of the Bombay Sales Tax Act relating to returns, assessment, advance payment of tax, rectification, collection, forfeiture, registration of the transferee of any dealer liable to pay tax under

this Act, imposition of the tax, liability of a dealer on the transferee of, or successor to, such dealer, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, special mode of recovery of tax, appeals, revisions, references, refunds, rebates, penalties, charging or payment of interest, compounding of offences, and the treatment of documents furnished by a dealer as confidential, shall, *mutatis mutandis*, apply accordingly.

(2) All the provisions relating to offences and penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence) of the Bombay Sales Tax Act shall *mutatis mutandis* apply in relation to the assessment, re-assessment, collection and the enforcement of payment of the tax required to be collected under this Act or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax payable under this Act were the tax payable under the Bombay Sales Tax Act.

CHAPTER V Miscellaneous and Rules

9. *Power of State Government to amend Schedule.*—The State Government may, from time to time, by notification in the Official Gazette, amend the Schedule by inserting any entry in respect of the transfer of the property in goods (whether as goods or in some other form) involved in the execution of works contract, and thereupon the Schedule shall stand amended accordingly for the purpose of levy of tax under this Act.

10. *Power to make rules.*—(1) The State Government may make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the power to make rules under sub-section (1) the rules may provide for—

(a) the time within which a dealer shall apply for registration under sub-section (1) of section 7;

(b) the manner in which and the authority to whom an application for registration certificate shall be made under sub-section (2) of section 7;

(c) the form of certificate of registration to be issued under sub-section (3) of section 7;

(d) the manner in which an application shall be made for cancellation of registration certificate and the authority who shall cancel such registration certificate under sub-section (6) of section 7;

(e) any other matter which is required to be or may be prescribed.

(3) In making any rules the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) Rules made under this section shall be subject to the condition of previous publication.

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(5) Every rule made under this section shall be laid as soon as may be after it is made before each House of State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

SCHEDULE
[See section 2(16) and 9]

Serial No.	Description of works contract
1.	The transfer of property in goods involved in the execution of works contract for fabrication and installation of plant and machinery.
2	The transfer of property in goods involved in the execution of works contract for fabrication and erection of structural works, including fabrication, and erection of trusses or purlins.
3	The transfer of property in goods involved in the execution of works contract for fabrication and installation of cranes or hoists.
4	The transfer of property in goods involved in the execution of works contract for fabrication and installation of elevators or escalators.
5	The transfer of property in goods involved in the execution of works contract for fabrication and installation of rolling shutters or collapsible gates.
6	The transfer of property in goods involved in the execution of works contract for civil works like construction of buildings, bridges or roads, and for repairs thereof.
7	The transfer of property in goods involved in the execution of works contract for installation of doors, windows, frames or grills.
8	The transfer of property in goods involved in the execution of works contract for fixing of tiles, slabs, stones or sheets.
9	The transfer of property in goods involved in the execution of works contract for installation of air-conditioning equipment, including deepfreezers, cold storage plants, humidification plants or de-humidifiers.
10	The transfer of property in goods involved in the execution of works contract for installation of air-conditioners.
11	The transfer of property in goods involved in the execution of works contract for electrical fitting or installation of electric equipment.

Serial No.	Description of works contract
12	The transfer of property in goods involved in the execution of works contract for furniture and fixtures, partitions, including contracts for interior decoration
13	The transfer of property in goods involved in the execution of works contract for construction of bodies on chassis of motor vehicles including threewheelers.
14	The transfer of property in goods involved in the execution of works contract for construction of railway coaches on under-carriages supplied by railways.
15	The transfer of property in goods involved in the execution of works contract for ship-building, construction of barges, ferries, tugs, trawlers or dredgers.
16	The transfer of property in goods involved in the execution of works contract for sanitary fittings, for plumbing, for drainage or sewerage.
17	The transfer of property in goods involved in the execution of works contract for laying underground or surface pipelines, cables or conduits.

THE BOMBAY MOTOR VEHICLES TAX (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 12th August 1985, was published in the *Maharashtra Govt. Gazette (Extra)*, Part IV, dated August 14, 1985.

MAHARASHTRA ACT NO. XX OF 1985.

An Act further to amend the Bombay Motor Vehicles Tax Act, 1958

Whereas it is expedient further to amend the Bombay Motor Vehicles Tax Act, 1958 (Bom. LXV of 1958), for the purposes hereinafter appearing: It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :

1. *Short title and commencement.*—(1) This Act may be called the **Bombay Motor Vehicles Tax (Amendment) Act 1985.**

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 3 of Bom. LXV of 1958.*—In section 3 of the Bombay Motor Vehicles Tax Act, 1958 (Bom. LXV of 1958), (hereinafter referred to as "the principal Act"),—

(a) in sub-section (1), in the second proviso,—

(i) for the figures, letters and words "1st day of April 1974" the words, brackets and figures "commencement of the Bombay Motor Vehicles Tax (Amendment) Act, 1985 (Mah. XX of 1985)" shall be substituted ;

(ii) in clause (b),—

(A) for the figures "VI" the figures "VII" shall be substituted ;

(B) for the words "at twice the rate" the words "at thrice the rate" shall be substituted ;

(b) in sub-section (1A),—

(i) for the figures, letters and words "1st day of April 1975" the words, brackets and figures "commencement of the Bombay Motor Vehicles

Tax (Amendment) Act, 1985 (Mah. XX of 1985)" shall be substituted ;

(ii) in clause (a), for the figures "VI" the figures "VII" shall be substituted ;

(iii) in clause (b), for the words and figures "at the rate of 100 per centum" the words and figures "at the rate of 200 per centum" shall be substituted.

3. *Amendment of section 4 of Bom. LXV of 1958*—In section 4 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Notwithstanding anything contained in sub-section (1), where a registered owner, or any person having possession or control, of a motor vehicle referred to in sub-clause I or in items (a), (b) or (c) of sub-clause VII of clause A of the First Schedule desires to pay tax for three years in advance, such owner or person shall pay tax at the rate of three times the rates provided by section 3".

4. *Amendment of section 11 of Bom. LXV of 1958*.—In section 11 of the principal Act,—

(a) in sub-section (1), for the words "fifteen per centum" the words "five per centum" shall be substituted ;

(b) in sub-section (2), after clause (c), the following clause shall be inserted, namely :—

"(d) pay annually to a local authority which continued to levy and collect any tax on motor vehicles after the commencement of this Act, by virtue of the provisions of clause (a) of the proviso to sub-section (2) of section 20, and has any time thereafter discontinued such levy and collection of that tax, such sum as road grant from the date of the discontinuance as may, from time to time, be determined by the State Government :"

5. *Substitution of First Schedule to Bom. LXV of 1958*.—For the First Schedule to the principal Act, the following Schedule shall be substituted, namely :—

FIRST SCHEDULE

(See section 3)

Description of motor vehicle	Maximum Annual Rate of Tax
1	2
Rs.	
A. Motor vehicle fitted solely with pneumatic tyres—	
I. Motor cycles and tricycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power)—	
(a) Cycles not exceeding 50 kgs. in weight, unladen	... 36
(b) Cycles not exceeding 100 kgs. in weight, unladen	... 72
(c) Cycles exceeding 100 kgs. in weight, unladen	... 96
(d) Tricycles	... 96
(e) Cycles or tricycles used for drawing a trailer or side car	... 30 in addition to the rates specified above,

1	2
II. Motor vehicles not exceeding 250 Kgs in weight, unladen adapted and used for invalids	5
III. Motor vehicles (including tricycles) used for the carriage of goods or materials—	
(a) Vehicles the registered laden weight of which does not exceed 750 Kgs	275
(b) Vehicles the registered laden weight of which exceeds 750 Kgs. but does not exceed 1,500 Kgs	495
(c) Vehicles the registered laden weight of which exceeds 1,500 Kgs but does not exceed 3,000 Kgs	715
(d) Vehicles the registered laden weight of which exceeds 3,000 Kgs but does not exceed 4,500 Kgs	990
(e) Vehicles the registered laden weight of which exceeds 4,500 Kgs but does not exceed 6,000 Kgs	1320
(f) Vehicles the registered laden weight of which exceeds 6,000 Kgs but does not exceed 7,500 Kgs	1650
(g) Vehicles the registered laden weight of which exceeds 7,500 Kgs	The rate specified in (f) above plus Rs. 125 for every 250 Kgs or part thereof in excess of 7,500 Kgs Provided that, where tax on motor vehicles is levied by any local authority, the maximum rates for vehicles registered for use solely within the limits of such local authority shall be two-thirds of the afore-said maximum rates.
IV. Motor vehicles (including tricycles) plying for hire and used for the carrying of passengers—	
(a) Vehicles licensed to carry two passengers	120
(b) Vehicles licensed to carry three passengers	180
(c) Vehicles licensed to carry four passengers	240
(d) Vehicles licensed to carry more than four passengers	The rate specified in (c) above plus Rs. 80 for every passengers in addition.

1	2
	tion to four passengers, which the vehicle is so licensed to carry ; Provided that, where a tax on motor vehicles is levied by any local authority, the maximum rates for motor vehicles registered for use within the limits of such local authority shall be two-thirds of the aforesaid maximum rates : Provided further that, the maximum rate for motor vehicles not required to be fitted with taximeters (luxury taxis) shall be fifty per cent more than the rates specified for the corresponding class of vehicles. <i>Explanation.</i>—Where not more than two children below the age of twelve years are permitted to be carried in a motor vehicle in addition to the number of passengers which the vehicle is licensed to carry, the child or children so carried shall not be reckoned as passengers,
V. Breakdown vans used for towing disabled vehicles	200
VI. (1) Tractors, whether or not fitted with any equipment described in (2) below : and	
(2) any motor vehicles which are not intended to carry passengers, goods or other load, and	

1	2
which are fitted with any equipment such as cranes, compressors or projectors, and are used for any special services or purposes—	
(a) Vehicles not exceeding 750 Kgs in weight, unladen.	150
(b) Vehicles exceeding 750 Kgs but not exceeding 1,500 Kgs in weight, unladen	225
(c) Vehicles exceeding 2,500 Kgs but not exceeding 2,250 Kgs in weight, unladen	300
(d) Vehicles exceeding 2,250 Kgs in weight, unladen	The rate specified in (c) above plus Rs. 75 for every 250 Kgs or part thereof in excess of 2,250 Kgs.
VII. Motor vehicles other than those liable to tax under the foregoing provisions of the Schedule—	
(a) Vehicle not exceeding 750 Kgs in weight, unladen	300
(b) Vehicles exceeding 750 Kgs but not exceeding 1,500 Kgs in weight, unladen	360
(c) Vehicles exceeding 1,500 Kgs not exceeding 2,250 Kgs in weight, unladen	480
(d) Vehicles exceeding 2,250 Kgs in weight, unladen, permitted to carry fifteen or less number of persons, including the driver	600
(e) Vehicles exceeding 2,250 Kgs in weight, unladen permitted to carry more than fifteen persons including the driver	The rate specified in (d) above plus Rs. 10 per person in excess of fifteen persons plus ten per cent thereof.
VIII. Trailers drawn by motor vehicles—	
(a) When a trailer is used for the carriage of goods	The rates specified in sub-clause III above in respect of motor vehicles used for the carriage of goods or materials.
(b) When a trailer is used for the carriage of passengers	The rates specified in sub-clause IV above in respect of motor vehicles plying for hire and used for carriage of passengers

1	2
(c) Where a trailer is used for any other purpose	40
B. Motor vehicles other than those fitted solely with pneumatic tyres	The rates shown in clause A plus per centum.
C. Dealers in, or manufacturers of, motor vehicles for a general licence, in respect of each motor vehicle.	300

6. *Substitution of Second Schedule to Bom. LXV of 1958.*—For the Second Schedule appended to the principal Act, the following shall be substituted, namely :—

SECOND SCHEDULE

[See section 3 (1B)]

Carrying capacity of the vehicles, i.e. the difference between registered laden weight and unladen weight.	Maximum Annual Rate of Tax	
	Private goods vehicles	Public goods vehicles
1	2	3
	Rs.	Rs.
1. Not exceeding 2 metric tonnes.	315	420
2. Exceeding 2 metric tonnes but not exceeding 3 metric tonnes.	450	600
3. Exceeding 3 metric tonnes but not exceeding 4 metric tonnes.	630	840
4. Exceeding 4 metric tonnes but not exceeding 5 metric tonnes	765	1,020
5. Exceeding 5 metric tonnes but not exceeding 6 metric tonnes.	855	1,140
6. Exceeding 6 metric tonnes but not exceeding 7 metric tonnes.	945	1,260
7. Exceeding 7 metric tonnes but not exceeding 8 metric tonnes.	1,035	1,380
8. Exceeding 8 metric tonnes but not exceeding 9 metric tonnes.	1,080	1,440
9. Exceeding 9 metric tonnes but not exceeding 10 metric tonnes.	1,170	1,560
10. Exceeding 10 metric tonnes.	1,260	1,680.

THE MAHARASHTRA GRAMDAN (SECOND AMENDMENT) ACT, 1984

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 12th August 1985, was published in the *Maharashtra Govt. Gazette (Ext)*. Part IV, dated August 14, 1985.

MAHARASHTRA ACT NO XXI OF 1985

An Act further to amend the Maharashtra Gramdan Act, 1964.
Whereas it is expedient further to amend the Maharashtra Gramdan

Act, 1964 (Mah. XXIII of 1955), for the purposes hereinafter appearing; It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Maharashtra Gramdan (Second Amendment) Act, 1984**.

(2) It shall come into force on such date as the State Government may by notification in the *Official Gazette*, appoint.

2. *Amendment of section 23 of Mah. XXIII of 1965*.—In section 23 of the Maharashtra Gramdan Act, 1964 (Mah. XXIII of 1965), (hereinafter referred to as "the principal Act"), in sub-section (1), for the words "there shall be a *Gram Samiti*", the words "there may be *Gram Samiti*," shall be substituted.

3. *Substitution of section 35 of Mah. XXIII of 1965*.—For section 35 of the principal Act, the following sections shall be substituted, namely :—

"35. *Accounts and Audit*.—(1) The manner in which payment from the *Gram Nidhi* shall be made, and the accounts shall be kept, shall be regulated in accordance with regulations made in that behalf.

(2) The audit of the accounts of a *Gram Mandal* shall be carried out by such authority and in such manner as may be prescribed and a copy of the audit note shall be forwarded to the Collector, the Tahsildar and the *Gram Mandal* within two months of the completion of the audit.

(3) On receipt of the audit note referred to in sub-section (2), the *Gram Mandal* shall either remedy any defects or irregularities which may have been pointed out in the audit note and send to the Tahsildar within three months intimation of its having done so or shall, within the said period, supply to the Tahsildar any further explanation in regard to such defects or irregularities as it may wish to give.

(4) On receipt of such intimation or explanation, the Tahsildar may, in respect of all or any of the matters discussed in the audit note,—

(a) accept the intimation or explanation given by the *Gram Mandal* and recommend to the Collector to drop the objection;

(b) suggest that the matter be re-investigated at the next audit or at any earlier date; or

(c) hold that the defects or irregularities pointed out in the audit note or any of them, have not been removed or remedied.

(5) The Tahsildar shall send a report of his decision of the Collector within one month of the date of receipt by him of the intimation or explanation referred to in sub-section (3), or in the event of the *Gram Mandal* failing to give such intimation or explanation on the expiry of the period of three months referred to in the said sub-section (3) and shall forward a copy of such report to the auditor and *Gram Mandal*. If the Tahsildar holds that any defects or irregularities have not been removed or remedied, the Tahsildar shall state in the report whether in his opinion the defects or irregularities can be regularised and if so, by what method and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. The Tahsildar shall also state whether the amounts to which the defects or irregularities relate should in his opinion be surcharged or charged as hereinafter provided.

(6) The Collector may, after considering the report of the Tahsildar and after making such further inquiry as he considers necessary, disallow

any item which appears to him contrary to law and surcharge the same on the person (including a member) making, or authorizing the making of, the illegal payment, and may charge against any person (including a member) responsible therefore the amount of any deficiency or loss caused by the gross negligence or misconduct of that person or member or any sum received which ought to have been, but is not, brought into account, by that person or member, shall pay to the *Gram Mandal* the amount so surcharged or charged and where the Collector considers it necessary, also an interest on the amount so surcharged or charged at such rate as may be determined by him. If such amount or interest directed to be paid by the Collector under his order is not paid by the person or member aforesaid within one month from the date of receipt of such order by him, the Collector shall recover it as an arrear of land revenue and credit it to the *Gram Nidhi*.

(7) Any person or member aggrieved by any order of surcharge or charge or interest thereon made by the Collector under this section may, within one month from the receipt by him of the decision of the Collector, apply to the District Court modify or set aside such order, and that Court after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge or interest thereon and make such order as to costs it thinks proper in the circumstances.

35A Liability of members for loss, waste or mis-application.—(1) Every member of a *Gram Mandal* shall be personally liable for the loss, waste or mis-application of any money or other property of the *Gram Mandal* to which he has been a party of which has been caused or facilitated by his mis-conduct or gross neglect of his duty as a member.

(2) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or mis-application of any money or other property of the *Gram Mandal* is a direct consequence of misconduct or gross neglect on his part, the Collector shall by order in writing direct such member to pay the *Gram Mandal* before a fixed date, the amount required to reimburse for such loss, waste or mis-application. If the amount is not so paid, the Collector shall recover it as an arrear of land revenue and credit it to the *Gram Nidhi*.

(3) Any person aggrieved by the decision of the Collector may apply to the District Court as provided in sub-section (7) of section 35, within the like time for redress of his grievance, and that Court may pass any order thereon which it can pass under that section."

4. Amendment of section 43 of Mah XXIII of 1965.—In section 43 of the principal Act, in sub-section (2), after clause (i), the following clause shall be inserted, namely:—

"(i-1) the authority by whom, and the manner in which the audit of the accounts shall be carried out under sub-section (2) of section 35;"

5. Amendment of section 44 of Mah. XXIII of 1965.—In section 44 of the principal Act, in sub-section (2), for clause (k), the following clause shall be substituted, namely:—

"(k) the manner of making payment from *Gram Nidhi*, and the keeping of accounts of *Gram Mandal* under sub-section (1) of section 35."

**THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES,
CALLINGS AND EMPLOYMENTS (AMENDMENT) ACT, 1985**

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 14th August, 1985 was published in the *Maharashtra Govt Gazette, Extra, Part IV*, dated 16th August, 1985.

MAHARASHTRA ACT NO. XXII OF 1985.

An Act further to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975.

Whereas it is expedient further to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975) for the purposes hereinafter appearing; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. This Act may be called the **Maharashtra State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 1985.**

2. *Amendment of Schedule I of Mah. XVI of 1975.*—In Schedule I to the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), for entry 19, the following entry shall be substituted, namely:—

“19 Each partner of a firm registered under the Indian Partnership Act, 1932 (IX of 1932) which is engaged in any professions, trades or callings. Rs. 250 per annum.”.

THE MAHARASHTRA LEGISLATURE MEMBER'S SALARIES AND ALLOWANCES (AMENDMENT) ACT, 1985

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 14th August 1985, was published in the *Maharashtra Gazette (Ext.)*, Part IV, dated August 16, 1985

MAHARASHTRA ACT NO. XXIII OF 1985.

An Act further to amend the Maharashtra Legislature Members Salaries and Allowance Act.

Whereas it is expedient further to amend the Maharashtra Legislature Members' Salaries and Allowances Act (Bom. XLIX of 1956), for the purposes hereinafter appearing; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Maharashtra Legislature Members' Salaries and Allowance (Amendment) Act, 1985.**

(2) It shall have effect from the 1st day of August 1985.

2. *Amendment of section 3 of Bom XLIX of 1955.*—In section 3 of the Maharashtra Legislature Members' Salaries and Allowances Act (Bom. XLIX of 1956) (hereinafter referred to as “the principal Act”), in subsection (2), for the letters and figures “Rs. 400” the letters and figures “Rs. 500” shall be substituted.

3. *Amendment of section 4 of Bom XLIX of 1956.*—In section 4 of the principal Act, for the letters and figures “Rs 50” in both the places where they occur, the letters and figures “Rs 75” shall be substituted.

4. *Amendment of section 5 AC of Bom. XLIX of 1956.*—Throughout section 5AC of the principal Act, for the words “fifteen thousand kilometers”, wherever they occur, the words “twenty thousand kilometers” shall be substituted.

5. *Amendment of section 5C of Bom. XLIX of 1956.*—In section 5C of the principal Act, in sub-section (3), for the letters and figures “Rs 450” the letters and figures shall be substituted.

6. *Amendment of section 6 of Bom. XLIX of 1956.*—In section 6 of the principal Act,—

(a) in sub-section (3), for the letters and figures “Rs. 500” the letter and figures “Rs. 700” shall be substituted ;

(b) in sub-section (4),—

(i) in clause (a) for the words, “eight days” the words “ten days” shall be substituted ;

(ii) in clause (b), for the words “eight days” the words “ten days” shall be substituted ;

(c) after sub-section (4), the following sub-section shall be added, namely :—

“(5) There shall be paid to every member a sum of Rs. 100 per month for stationery and postage.”.

THE END

PART VII

BIHAR ACTS, ORDINANCES & NOTIFICATIONS

1985

THE BIHAR FOREST PRODUCE (REGULATION OF TRADE) ACT, 1984

Published in the *Bihar Gazette*, (Ext.), dated the 14th July, 1984

BIHAR ACT NO. 12 OF 1984

An Act to provide for regulating it in the Public Interest the trade and other related matters of certain forest produce by creation of a state monopoly in such trade in the State of Bihar.

It is hereby enacted in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title, extent, commencement and application*—(A) This Act may be called the Bihar Forest Produce (Regulation of Trade) Act, 1984.

(B) It extends to the whole of the State of Bihar.

(C) It shall come into force in such area or areas and on such date or dates as the Government may, by notification in the official Gazette specify and they may specify different dates for different areas.

(D) It shall apply to such forest produce and on such date or dates as the Government, by notification, may specify in their behalf.

2. *Definitions*.—In this Act, unless the context otherwise requires,—

(1) “Agent” means an agent appointed under section 4 ;

(2) “Committee” means the Advisory Committee constituted under sub-section (1) of section 6 ;

(3) “Forest Officer” means any person whom the State Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer ;

(4) “Forest Produce” means any forest produce as specified in the Schedule (hereinfter called the specified forest produce) ;

(5) “Government” means the State Government ;

(6) “Primary Collector” is the person who first collects the specified forest produce ;

(7) “Licensed Vendor” in relation to specified forest produce means a person to whom a licence is issued under section 12 for retail sale of such produce ;

(8) “Retail Sale” means a sale of any specified forest produce not exceeding such quantity as the Government may, by notification specify in respect of such specified forest produce ;

(9) “Specified area” in relation to specified forest produce means the area specified in notification under sub-section (3) of section 1 for such specified forest produce ;

(10) “Specified Forest Produce” in relation to a specified area means

the forest produce specified in notification under sub-section (4) of section 1 for specified area.

(11) "Timber" means as specified in schedule round sawn, or fashioned, straight pieces of and above two meters in length of standing or felled trees of species to be notified by Government in this behalf in the Schedule ;

(12) "Unit" means a sub-division of specified area constituted into unit under section 3 ;

(13) Words and expressions used but not defined in this Act and defined in the Indian Forest Act, 1927 (Act XVI of 1927) shall have the same meanings as assigned to them in that Act.

3 *Constitution of units.*—The Government may divide as provided in the rules every specified area in such manner of units as it may deem fit.

4. *Appointment of agents.*—(1) The State Government may, for the purchase of and trade in specified forest produce on its behalf, appoint one or more agents in respects of different units for all or any specified forest produce and any such agent may be appointed in respect of more than one unit.

(2) A Gram Panchayat, Panchs, Panchs, Vyapar Mandal or the Bihar State Tribal Co-operative Development Corporation Ltd. or the Bihar State Forest Development Corporation Ltd. or any similar Corporation dealing in specified forest produce shall be appointed as an agent under sub-section (1) above for one or more units.

(3) The terms, condition, and the procedure for appointment of agent shall be such as may be prescribed in the rules.

5. *Restriction on purchase or transport of specified forest produce.*—(1) On the issue of a notification under sub-sections (3) and (4) of section 1 with respect to any area, no person other than—

(i) The Government ;

(ii) The Officer of the Government authorised in writing in this behalf,—

(iii) An agent in respect of the unit in which the specified forest produce is grown or found ;

shall purchase or transport or import or export such specified forest produce in and from such area.

Explanation I.—Purchase of specified forest produce from the State or the State Government or the aforesaid Government Officer or agent or a licensed vendor shall not be deemed to be a purchase in contravention of this Act.

Explanation II.—A person having no interest in the holding who has acquired the right to collect the specified forest produce grown or found on such land shall be deemed to have purchased such produce in contravention of the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1)—

(i) a primary collector of a specified forest produce may transport this specified forest produce from any place within the unit wherein such specified forest produce is grown or is found to any other place in that unit ;

(ii) any person may transport the specified forest produce not exceeding the quantity as may be prescribed, from the place of purchase of such produce to place where such produce is required for his bona fide use or for consumption ;

(iii) specified forest produce purchased from the Government or any Officer or Agent specified in the said sub-section by any person for industrial purposes or manufacture of goods within the State in which such specified forest produce is used, as raw material or by any person for sale or consumption outside the State or for import in this State or transport through this State or by the licensed vendor may be transported by such person in accordance with the terms and conditions of a permit to be issued in that behalf by such authority and in such manner as may be prescribed ; and

(iv) any person having the right in any forest in respect of any specified forest produce under any law for the time being in force, may transport such produce for his domestic use or consumption in such quantity and subject to such terms and conditions as may be prescribed.

(3) Any person desiring to sell the specified forest produce may sell them to the aforesaid Government Officer or Agent at any depot situated within the said unit :

Provided that the Government, the Government Officer or Agent shall not be bound to repurchase the specified produce once sold.

6. *Constitution of Advisory Committee.*—(1) The Government shall, by a notification in the Official Gazette, constitute for each calendar year commencing from the 1st January and ending on the 31st December an Advisory Committee (hereinafter referred to as the Committee) for the whole State for the purpose of advising the Government in the manner of fixation of fair and reasonable price of each specified forest produce at which produce may be purchased from a primary collector by the Government or its authorised Officer or Agent, as are offered for sale in accordance with the provisions of this Act. The Committee shall consist of not less than nine and not more than thirteen members and shall submit its report to the Government within such time as may be specified therein. The Government may constitute separate committee for separate specified forest produce :

Provided that—

(i) one member shall be from amongst the traders of such specified forest produce or manufacturer of goods in which the specified forest produce is used as raw material ;

(ii) one member shall be other than Government from amongst the primary collectors of such specified forest produce ;

(iii) there shall be three members from Assembly, one from Council and one from Parliament of which one would be compulsorily from Scheduled Caste and one from Scheduled Tribe. Normally all the members would be from predominantly forest areas.

(iv) two Government Officers nominated by the Government ;

(v) the Forest Minister will be President of this Committee and Vice-President of the Committee will be nominated amongst the members nominated under section 6(iii).

(vi) two members shall be from the local Munda, Manki and Pramukh of Chottanagpur and Santhal Praganas areas.

(2) The Committee shall also advise the Government on such other matters as may be referred to by it by the Government from time to time.

(3) The business of the Committee shall be conducted in such manner as may be prescribed.

(4) The members of the State Legislature and Parliament will be entitled to same allowance as payable to them. But other members of the Committee shall be entitled to such allowances as may be prescribed.

7. *State Government to fix price in consultation with Committee.*—The Government shall, after considering the recommendation of the Committee constituted under section 6, fix the price at which specified forest produce shall be purchased by it or by any authorised officer or agent from primary collectors of specified forest produce in the specified area and shall publish the same in the official Gazette and in such other manner as may be prescribed on such date or dates as may be specified by Government in this behalf.

The price so fixed shall remain in force up to the end of the calendar year and shall not be altered during that years :

Provided that if the committee fails to tender advice within the period specified under sub-section (5) of section 6, the Government may fix the price without such advice.

8. *Opening of depots, display of price lists etc. at the depots*—There shall be set up such number of depots and at such places as the Government may taking into consideration the convenience of primary collectors of specified forest produce direct and a price list of specified forest produce fixed by the Government under section 7 and the hours of business shall be prominently displayed on the notice board kept for the purpose at every such depots.

9. *Government to purchase the specified forest produce.*—The Government or an authorised officer or agent shall be bound to purchase at the price fixed under section 7 specified forest produce offered for sale at the depot during the hours of business.

10. *Registration of manufacturers, traders and industrialists.*—(1) Every manufacturer who uses any specified forest products as a raw material and every traders and every industrialists whose annual requirement or consumption as the case may be, exceeds such quantity, as may be prescribed, shall get himself registered within such period, on payment of such fee in such manner as may be prescribed.

(2) Every such manufacturer or trader or industrialists shall submit such declarations, accounts and returns and such forms to such officer and at such intervals as may be prescribed.

11. *Disposal of specified forest produce.*—All forest produce collected or to be collected from the forest or the State or purchased or to be purchased by the Government or by its agent unless otherwise directed, shall be disposed of by public auction every year preferably before the end of April.

It shall be permissible to sell produce in anticipation of collection or purchase by or on behalf of Government on the basis of estimate.

12. *Retail sale of specified forest produce.*—(1) No person shall engage himself in retail sale of a specified forest produce except under a licence granted under this section.

(2) The Government may, for the purpose of facilitating retail sale of specified forest produce within the State, grant licence to as many persons as it may deem fit.

(3) Any persons who desires to engage himself in retail sale of a specified forest produce shall make an application in such form to such

authority and in such manner as may be prescribed.

(4) The prescribed authority may, on receiving such application and on payment of such fee as may be prescribed, grant or renew a licence under such terms and conditions as may be prescribed

13. *Delegation of powers.*—The Government may by order delegate any or all powers or functions under this Act or the rules made thereunder, to any Forest Officer not below the rank of an Assistant Conservators of Forests who shall exercise or perform the same, subject to such conditions and restrictions as the Government may specify in the order.

14. *Power to prevent Commission of Offences.*—Every Forest Officer and Police Officer shall prevent and may interfere for the purposes of preventing commission of any offence under this Act.

15. *Power to entry, search seizure, etc.*—(1) Any Forest Officer not below the rank of a Range Officer of Forest or Police Officer not below the rank of a Sub-Inspector, or any other person authorised by the Government in this behalf may with a view to securing compliance with provisions of this Act or the rules made thereunder, or to satisfying himself that the said provisions has been complied with—

(i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of specified forest produce.

(ii) enter and search any place ;

(iii) seize the specified forest produce in respect of which he suspects that any provision of this Act, or the rules made thereunders has been, is being or is about to be contravened along with the respectacles, containing such produce and all tools, ropes, chain, boats or/and vehicles used in committing any such offence.

(2) The provision of sections 102 and 103 of Code of Criminal Procedure, 1973 (II of 1974) relating to search and seizure shall so far as may, be, apply to searches and seizures under this section.

(3) Every Officer seizing specified forest produce and other property under clause (iii) of sub-section (1) above shall place on such produce, if physically possible, a property mark indicating that the same has been seized and shall, except when the offender agrees in writing forthwith to get the offence compounded in the manner prescribed, make report of such seizure to the Magistrate.

(4) Any Forest Officer not below the rank of Range Officer of Forests, who or whose subordinate has seized any property other than the specified forest produce under clause (iii) of sub-section (1) may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before he Magistrate.

16. *Government and authorised officer not liable for damages to forest produce at depot or under custody.*—The Government or authorised officer shall not be responsible for any loss or damage which may occur in respect of any specified forest produce or property seized in respect of any specified forest produce or property seized in respect of clause (iii) of sub-section (1) of section 15, or taken possession of under section 31, while lying in depot or in custody of a forest officer or an authorised officer, and no forest officer or authorised officer shall be responsible for any loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently :

Provided further if the seized forest produce is of a perishable nature

whose quality may deteriorate on storage, the same may be sold by public auction or by tender by a Forest Officer not below the rank of Assistant Conservator of Forests, or any other officer as may be empowered by the Government in their behalf and deposit the sale proceeds in the Government Treasury.

17. *Cognizance of offence.*—No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by any Forest Officer, not below the rank of a Divisional Forest Officer, or by any other officer, as may be authorised by the Government in their behalf.

18. *Custody of seized property during pendency of cases.*—The specified forest produce and property seized under clause (iii) of sub-section (1) of section 15 shall be kept in the custody of the Forest Officer not below the rank of a Forest Guard or a village headman or any other person considered suitable by the officer seizing the forest produce until the compensation for compounding the offence is paid or until an order of the magistrate directing its disposal is received.

19. *Power to hold enquiry.*—(1) A forest Officer not below the rank of a Range Officer of forest, or such other Officer as may be authorised by the Government in this behalf, may hold enquiry into the offences relating to any contravention of any provision of this Act and the rules made thereunder and in the course of such enquiry he shall have—

(i) power of Civil Court to compel the attendance of witnesses and production of documents and material objects;

(ii) power to issue a search warrant under the Code of Criminal Procedure, 1973 (II of 1974); and

(iii) power to receive and record evidence.

(2) Any evidence recorded under clause (iii) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate.

20. *Penalty.*—If any person contravenes any of the provisions of this Act or rules made thereunder—

(1) he shall be punished with imprisonment which may extend to one year or fine which may extend to two thousand rupees, or both :

Provided that penalties which are double of those mentioned above may be inflicted in case where the offence is committed after preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence ;

(2) the specified forest produce in respect of which such contravention has been made or such part thereof as the Court may deem fit, any boat, tools, vehicle, animal, vessel or other conveyances or any other articles used in committing such offence, shall be forfeited to the Government and shall vest in Government free from encumbrances :

Provided that if the Court is of the opinion that it is not necessary to direct confiscation in respect of whole, or as the case may be, any part of the specified forest produce or other property, it may for reasons to be recorded refrain from doing so.

(3) such forfeiture may be in addition to any other punishment prescribed for such offence.

21. *Disposal of produce and other seized property on conclusion of trial.*—On the conclusion of the trial of the offence any specified forest produce in respect of which such offence has been committed, if it is the property

of Government or has been confiscated, and other forfeited property shall be taken charge of by a Forest Officer, in any other case, may be disposed of in such manner as the Court may direct.

22. Attempts and abetments—Any person who attempts to contravene or abets the contravention of any provision of this Act or rules made thereunder shall be deemed to have contravened such provisions.

23. Compounding of offences.—(1) State Government may, by notification in the official Gazette, empower Forest Officer to—

(i) accept from any person against whom a reasonable suspicion exists, that he has committed any offence punishable under this Act, a sum of money by way of compensation for the offence which such person is suspected to have committed ; and

(ii) when any specified forest produce has been seized as liable to confiscation to release the same on payment of the value thereof as estimated by such officer.

(2) On payment of such sum of money or such value or both, as the case may be, to such officer the suspected person shall be discharged, the specified forest produce and other property, if any, seized, shall be released and no further proceedings shall be taken against such person or property.

(3) A Forest Officer shall not be empowered under this section unless he is a Forest Officer of a rank not inferior to that an Assistant Conservator of Forest and the sum of the money accepted as compensation under clause (i) of sub-section (1) shall in no case exceed the sum of one thousand rupees.

24. Saving of power to release property seized.—Nothing hereinbefore contained shall be deemed to prevent any forest officer empowered in this behalf by the State Government from directing at any time the immediate release of any property and produce seized under section 15 of this Act.

25. Savings in respect of Acts done in good faith.—No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or any injury suffered by virtue of the provision of this Act or by anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

26. Forest Officer deemed to be public servant.—All Forest Officers shall be deemed to be public servant within the meaning of the Indian Penal Code (XLV of 1860).

27. Indemnity for acts done in good faith.—No suit shall lie against any public servant for anything done by him in good faith under this Act.

28. Presumption that specified forest produce belongs to Government.—When in any proceeding taken under this Act or in consequence of anything done under this Act, a question arises as to whether any specified forest produce is the property of the Government such produce shall be presumed to be the property of the Government, until the contrary is proved.

29. Power to make rules.—(1) The Government may subject to the condition of the previous publication, make rules to carry out all or any of the provisions of the Act.

(2) The Government may direct that any rule made under this section shall not apply to any specified forest produce or to any specified area.

(3) Every rule made under this Act, shall immediately after it is made, be laid before each House of the State Legislature if it is in session, and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session, or in two successive sessions, and if before expiration of the session in which it is so laid or the session immediately following, both Houses agree to in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without any prejudice to the validity or anything previously done under that rule.

(4) All rules made by the Government under this Act shall be published in the official Gazette and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

(5) Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both.

30. *Recovery of money due to Government.*—All money payable to the Government under this Act, or under any rule made under this Act, or no account of price of any specified forest produce, or expenses incurred in the execution of this Act in respect of such specified forest produce, may if not paid when due be recovered under the law for the time being in force as if it were an arrear of land revenue.

31. *Licence on specified forest produce for such money.*—(1) When any such money is payable for or in respect of any specified forest produce, the amount thereof shall be deemed to be a first charge on such specified forest produce and such specified forest produce may be taken possession of by a Forest Officer until such amount has been paid.

(2) If such amount is not paid when due, the Forest Officer may sell such specified forest produce by public auction or tender and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of sale by the person entitled thereto, shall be forfeited to the State Government.

32. *Limitation of applicability of Indian Forest Act, 1927 and any other law or order.*—(1) Nothing contained in the Indian Forest Act, 1927 (XVI of 1927), shall apply to specified forest produce in respect of matters for which provisions are contained in this Act.

(2) Nothing contained in any other thing having force of law in any region of the State shall apply to the specified forest produce in respect of matters for which provisions have been made in this Act.

33. *Power to remove difficulty.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the official Gazette do anything not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for the purpose of removing the difficulty.

34. *Power to amend the Schedule.*—The Government may from time to time by notification add to or omit from the schedule any forest produce after considering the necessity in the public interest, of regulating the trade of any specified forest produce and on any such notification being issued the Schedule shall be deemed to be amended accordingly.

35 *Repeal and saving.*—(1) The Bihar Forest Produce (Regulation of Trade) Fourth Ordinance, 1983 (Bihar Ordinance 5 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as if this Act were in force on the day on which such thing or action was done or taken.

SCHEDULE

[See Section 2 (4)]

I. Timber of following species.—

(i) Sal ...	...	(Shorea robusta)
(ii) Asan ...	..	(Terminata tomentosa)
(iii) Karam ..	..	(Adina coreifolia)
(iv) Bija ...	...	(Pterocarpus mardium)
(v) Sagwan	...	(Tectong grandis)
(vi) Sisham ..	...	(Dalbergia sissoo)
(vii) Sidha ..	...	(Lagerstroemia parviflora)
(viii) Dhup ..	...	(Pinus roxburghii)
(ix) Eucalyptus	..	(Eucalyptus species)
(x) Ghora Karanj	...	(Ailanthus excelsa)
(xi) Harra ...	...	(Terminalia chebula)
(xii) Bahera	...	(Terminalia belerica)
(xiii) Satsal ..	..	(Dalbergia latifolia)
(xiv) Kekar ..	..	(Garuga pinnata)
(xv) Karanj ..	...	(Pongamia pinnata)
(xvi) Kusum	..	(Schleichera oleosa)
(xvii) Bhurkund	..	(Hymenodictyon excelsum)
(xviii) Salai ...	...	(Boswellia serrata)
(xix) Champ ..	...	(Michelia Champaca)
(xx) Semal ...	...	(Salmelia malabaricum)
(xxi) Arjun ..	..	(Terminalia arjuna)
(xxii) Dhaura	...	(Anogeissus latifolia)
(xxiii) Siris ...	...	(Albizia chinensis)
(xxiv) Kajh ..	..	(Bridelia retusa)
(xxv) Gamhar	...	(Gmelina arborea)
(xxvi) Toon ..	..	(Cedrela toona)
(xxvii) Chatwan	..	(Alstonia scholaris)
(xxviii) Palas	..	(Butea mocosperma)
(xxix) White siris	...	(Albizia procera)
(xxx) Panjan	..	(Ougenia oenone)
(xxxi) Phaldu	..	(Mitragyna parvifolia)
(xxxii) Kendu	...	(Diospyros melanoxylon)

II. Fruits and seeds of.—

(i) Sal ..	...	(Shorea robusta)
(ii) Kusum	...	(Shleochera oleossa)
(iii) Mahua	...	(Madhuca indica)
(iv) Karanj	..	(Pengamia pinnata)
(v) Palas	...	(Butea monsperma)
(vi) Maula	...	(Butra parviflora)
(vii) Kamla	...	(Mallotus philippinensis)
(viii) Chiraunjee	..	(Buchanania lanzen)
(ix) Haraa	...	(Terminalia chebula)
(x) Bahera	..	(Terminalia belerica)
(xi) Anola	...	(Embulica officianalis)
(xii) Eacharia	..	

III. Flowers and Mahua (Madhsea indica)**IV. Gums and resins of—**

(i) Gum Karaya	...	(Sterculia urens)
(ii) Gum Katila	...	(Cocolospermum religiosum)
(iii) Gum Dhaura	...	(Anogeissus latifolia)
(iv) Sal resin	...	(Shorea robusta)
(v) Salai resin	..	(Bursera serrata)

V. Grasses of—

Sabai grass	..	(Eulaliopsis binate)
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VI. Lac (Sticklac)**VII. Tassar (Cocoon)****VIII. Medicinal plants.—**

- (i) Rauwolfia serpentina
- (ii) Rauwolfia tertaphylla synapsis R. Canescent
- (iii) Costous speciosus
- (iv) Oroxylum indicum
- (v) Andrographis paniculata

IX. Fibre yielding plants.—

(i) Sisal	...	(Agave sisalana)
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X. Leaves.—

(i) Mahulan	..	(Bauhinia vahili)
(ii) Sal	..	(Shorea robusta)

XI. Bamboos,—

- (i) Dendrocalamus spp.
- (ii) Bambusa spp.

XII. Kath.—

Khair	..	(Acacia catechu)
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**THE BENGAL, AGRA AND ASSAM CIVIL COURTS (BIHAR
AMENDMENT) ACT, 1983**

Published in the *Bihar Gazette (Ext.)*, date 21st March, 1984.

BIHAR ACT NO. 2 OF 1984

An Act to amend the Bengal, Agra and Assam Civil Court Act, 1887 (Act XII of 1887) in its application to the State of Bihar

Be it enacted by the Legislature of the State of Bihar in the Thirty-fourth Year of the Republic of India as follows :—

1. *Short title extent and commencement*—(1) This Act may be called for the Bengal, Agra and Assam Civil Courts (Bihar Amendment,) Act, 1983.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force at once.

2. *Amendment of Section 25 of Act XII of 1887.*—In Section 25 of the Bengal, Agra and Assam and Civil Courts Act, 1887 (Act XII of 1887) for the words “Seven hundred and fifty rupees” the words “one thousand and five hundred rupees” and for the words “three hundred rupees” the words “one thousand rupees” shall be substituted.

THE BIHAR CONTINGENCY FUND (AMENDMENT) ORDINANCE, 1984

Published in the *Bihar Gazette, (Ext.)*, dated May 4, 1984.

BIHAR ORDINANCE NO. 10 OF 1984

[3rd, May, 1984]

An Ordinance to amend the Bihar Contingency Fund Act, 1950

Promulgated by the Governor of Bihar in the Thirty-fifth Year of the Republic of India.

Preamble.—Whereas, the Legislature of the State of the Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Contingency Fund Act, 1950 (Bihar Act 19 of 1950), in the manner hereinafter appearing :

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :

1. *Short title and commencement.*—(1) This Ordinance may be called the Bihar Contingency Fund (Amendment) Ordinance, 1984.

(2) It shall come into force at once.

2. *Amendment of Section 4 of Bihar Act 19 of 1950.*—For the proviso to Section 4 of the Bihar Contingency Fund Act, 1959 (Bihar Act 19 of 1950), (hereinafter referred to as the said Act), the following proviso shall be substituted, namely :—

“Provided that during the period beginning on the date of commencement of the Bihar Contingency Fund (Amendment) Ordinance, 1984 and ending on 31st day of March, 1985, this Section shall have effect subject to the modification that for the words “fifty crores of rupees” the words “Two hundred and fifty crores of rupees” shall be substituted.

3. *Amendment of Section 5 of Bihar Act 19 of 1950.*—In Section 5 of the said Act the following proviso shall be added, namely:—

“Provided that if advance made from the Contingency Fund in any financial year is authorised by the State Legislature in the current financial year or in succeeding financial year and the amount of such authorisation exceeds the permanent corpus of the Fund, the amount in excess of the permanent corpus shall be placed to the credit of the Consolidated Fund of the State and not to the Contingency Fund.”

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1983

The following Act was published in the *Bihar Gazette*, (Ext.), No. 466 dated August 24, 1984.

BIHAR ACT NO. 16 OF 1984

[24-8-1984]

An Act to Amend the Code of Criminal Procedure, 1973 (Act II of 1974) in its Application to the State of Bihar.

Be it enacted by the Legislature of the State of Bihar in the thirty-fourth year of Republic of India as follows :

1. *Short title extent and commencement* —(1) This Act may be called the Code of Criminal Procedure (Bihar Amendment) Act, 1984,

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force at once.

2. *Amendment of Section 24 of the Code of Criminal Procedure, 1973 (Act II of 1974) in its application to the State of Bihar.*—For sub-section (6) of Section 24 of the Code of Criminal Procedure, 1973 (Act II of 1974), the following sub-section shall be substituted and shall always be deemed to have been substituted, namely :—

“(6) Notwithstanding anything contained in sub-section (5) where in a State there exists a regular cadre of prosecuting Officers, the State Government may also appoint a public prosecutor or an Additional Public Prosecutor from among the persons constituting such cadre.”

**THE BIHAR NON-GOVERNMENT SECONDARY SCHOOL
(TAKING OVER OF MANAGEMENT AND CONTROL)
(AMENDMENT) ORDINANCE, 1984**

Published in the *Bihar Gazette*, (Ext.), dated November 26, 1984.

BIHAR ORDINANCE NO. 15 OF 1985

An Ordinance to amend the Bihar Non-Government Secondary School (Taking over of management and control) Act, 1981.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session ;

And, Whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Non-Government Secondary School (Taking over of Management and Control) Act, 1981 (Bihar Act 32 of 1982) in the manner hereinafter appearing ;

Now, Therefore, in exercise of the power conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(i) This Ordinance may be called the Bihar Non-Government Secondary School (Taking over of Management and Control) (Amendment) Ordinance, 1984.

(ii) It shall extend to the whole of the State of Bihar.

(iii) It shall come into force at once.

2. *Amendment of section 2 of Bihar Act 33 of 1982.*—In clause (d) of section 2 of Bihar Non-Government Secondary School (Taking over of Management and Control) Act, 1981 (Bihar Act 33 of 1982) (hereinafter referred to as the said Act) for the words “any Trust, Association or Corporate Body” the words “any registered Trust, Association, Corporate Body or person or body of persons” shall be substituted.

3. *Amendment of section 19 of Bihar Act 33 of 1982.*—In section 19 of the said Act, for the words “Association or Corporate Body” the words “Association, Corporate Body, persons, or body of persons” shall be substituted.

Dated : The 22nd November, 1984

A. R. KIDWAI,
Governor of Bihar.

**THE BIHAR AND ORISSA EXCISE (AMENDMENT)
ORDINANCE, 1984**

Published in the *Bihar Gazette*, (Ext.), dated November 24, 1984

BIHAR ORDINANCE NO. 14 OF 1984

An Ordinance to amend the Bihar and Orissa Excise Act, 1915.

Preamble.—Whereas the Legislature of the State of Bihar is not in session.

And, Whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa 2 of 1915), in the manner hereinafter appearing ;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India the Governor is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Bihar Excise (Amendment) Ordinance, 1984.**

(2) It shall come into force at once.

2. *Amendment of section 1 of Bihar & Orissa Act II of 1915.*—For sub-section (1) of section 1 of the Bihar and Orissa Excise Act, 1915 (B. & O. Act II of 1915) (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely :—

“This Act may be called the Bihar Excise Act, 1915.”

3. *Amendment of section 2 of B. & O. Act II of 1915.*—In section 2 of the said Act,—

(i) after clause (10) the following clause shall be inserted, namely :—

“(11) ‘hemp plant’ means the plant *cannabis sativa*’ ;

(ii) for clause (12a) the following clause shall be substituted, namely :—

“(12a) ‘intoxicant’ means—

(1) any liquor, or

(2) any substance from which liquor may be distilled and which is declared by the State Government by notification in the Official Gazette to be an intoxicant for the purpose of this Act, or

(3) intoxicating drug, or

(4) Medicinal preparation as defined under the Medicinal & Toilet Preparations (Excise Duties) Act, 1955.”

4. *Amendment of section 19 of the B. & O. Act II of 1915.*—In section 19 of the said Act,—

(a) for the heading, the following heading shall be substituted, namely :—

“possession and consumption of intoxicants generally”;

(b) for sub-section (4) the following sub-section shall be substituted, namely :—

“(4) Notwithstanding anything contained in this Act and the Dangerous Drugs Act, 1930 (Act II of 1930), the State Government, may by notification prohibit the possession, consumption or both by any person or class of persons or subject to such exceptions, if any, as may be specified in the notification, by all persons in the State of Bihar or in any specified local area, of any intoxicant either absolutely or subject to such conditions as it may prescribe.”

5. *Amendment of section 25 of the B. & O. Act II of 1915.*—In section 25 of the said Act, for the word “Eighteen” the word “twenty-one” shall be substituted wherever it occurs.

6. *Amendment of section 31 of the B. & O. Act II of 1915.*—In section 31 of the said Act,—

(a) in clause (d) of sub-section (1)—

(i) after the words “Chairman of each municipality” the words “and Mayor of a Corporation” shall be inserted, and

(ii) at the end of the sentence the words “and Municipal Corporation” shall be added.

7. *Amendment of section 33 of the B. & O. Act II of 1915.*—In section 33 of the said Act,—

(i) in clauses (a) and (b) of sub-section 1 after the word "Municipality" the words "or Corporation" shall be inserted ;

(ii) in sub-section 2, after the word "Municipality" the words "or Corporation" and after the words "Chairman of the Municipality" the words "or Mayor of a Corporation" shall be inserted ;

(iii) in sub-section 3, after the word "Municipality" the words "or Mayor of a Corporation" shall be inserted ;

(iv) in clause (i) of sub-section (3) after the words "in the case of a Municipality" the words "or Mayor, as the case may be" shall be inserted ;

(v) in clause (iii) after the words "Municipal Commissioner" the words "or Councillor of a Corporation" shall be inserted.

8. *Amendment of section 35 of the B & O. Act II of 1915.*—In the heading of section 35 of the said Act the words "or Board" shall be omitted.

9. *Amendment of section 42 of the B & O. Act II of 1915.*—In section 42 of the said Act, after sub-section 2, the following new sub-section shall be inserted and the existing sub-section (3) shall be renumbered as sub-section (4) :—

"(3) When a licence, permit or pass is liable to be cancelled, it may, at the discretion of the authority who granted the same, be suspended for a period of ninety days at a time, provided the authority concerned may extend the period of suspension beyond ninety days, under exceptional circumstances, after recording reasons for the same."

10. *Substitution of new section for section 47 of the B & O. Act II of 1915.*—For section 47 of the said Act the following section shall be substituted, namely :—

"47 *Penalty for unlawful import, transport, manufacture, possession, consumption sale etc.*—If any person, in contravention of this Act, or of any rule, notification or order made, issued or given or license, permit or pass granted under this Act—

(a) imports, exports, transports, manufactures possesses, consumes or sells any intoxicant; or

(b) cultivates any hemp-plant ; or

(c) collects or sells any portion of the hemp-plant from which an intoxicating drug can be manufactured or produced ; or

(d) bottles any liquor for purposes of sale ; or

(e) works any distillery or brewery ; or

(f) uses, keeps or has in his possession any material, still, utensil, implement, or apparatus whatever for the purpose of manufacturing any intoxicant other than *tari* ; or

(g) establishes any distillery, brewery or warehouse ; or

(h) removes any intoxicant from any distillery, brewery, warehouses, other place of storage licensed, established, authorised or continued under this Act,

he shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine which may extend to five thousand rupees and in default of payment of fine, he shall be punished with imprisonment for a term which may extend further to one year :

Provided that this punishment shall be—

(1) for the first offence he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than

five hundred rupees and in default of payment of fine, a further imprisonment for a term of fifteen days :

(2) for the second and subsequent offences he shall be liable for imprisonment for a term which shall not be less than six months and a fine of not less than one thousand rupees, and in default of payment of fine a further imprisonment for a term of one month."

11. *Insertion of a new section 47A after section 47 in the B. & O. Act II of 1915*—After section 47, the following new section 47A shall be inserted, namely :—

"47A *Penalty for offences committed by any Company*.—Where any offence punishable under this Act is committed by a Company, and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any Director, Manager, Secretary, Agent, Officer or person concerned in the management of the Company, such Director, Manager, Secretary, Agent, Officer or person concerned shall be liable to be proceeded against and punished accordingly.

For the purpose of this section—

(a) 'Company' means a body corporate and includes a firm or other association of individuals ;

(b) 'Director' in relation to firm means a partner of the firm."

12. *Substitution of a new section for section 49 of the B. & O. Act II of 1915*.—For section 49 of the said Act the following section shall be substituted, namely :—

"49. *Penalty for altering or attempting to alter any denatured spirit*.—If any person alters or attempts to alter any denatured spirit, whether manufactured in India or not, with the intention that such spirit may be used for human consumption, whether as a beverage, or internally as a medicine, or in any other way whatsoever, by any method whatsoever ; or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made ;

he shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to five thousand rupees and in default of payment of fine, shall be punished with a further imprisonment for a term which may extend to one year :

Provided that this punishment shall be—

(1) for the first offence he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees, and in default of payment of fine, a further imprisonment for a term of fifteen days ;

(2) for the second and subsequent offences, he shall be liable for imprisonment for a term which shall not be less than six months and a fine of not less than one thousand rupees, and in default of payment of fine, a further imprisonment for a term of one month."

13. *Amendment of section 54 of the B. & O. Act II of 1915*.—In section 54 of the said Act, for the word "Eighteen" the word "twenty-one" shall be substituted.

14. *Substitution of a new section for section 55 of the B. & O. Act II of 1915*.—For section 55 of the said Act, the following section shall be substituted, namely :—

"55. *Penalty for possession of intoxicant in respect of which an offence*

has been committed.—If any person, without lawful authority, has in his possession, any quantity of any intoxicant, knowing, or having reason to believe the same to have been unlawfully imported, transported, manufactured, or knowing or having reason to believe that the prescribed duty has not been paid thereon, he shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to five thousand rupees and in default of payment of fine, shall be punished with a further imprisonment for a term which may extend to one year.

Provided that, except for such small quantities of intoxicant as may be specified in this behalf, the punishment for the offence shall be—

(a) for the first offence, he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees, and in default of payment of fine a further imprisonment for a term of fifteen days;

(b) for the second and subsequent offences, imprisonment for a term which shall not be less than six months, and a fine of not less than one thousand rupees and in default of payment of fine, further imprisonment for a term of one month."

15. *Substitution of a new section for section 64 of the B.&O. Act II of 1915*—For section 64 of the said Act, the following section shall be substituted, namely:—

"64 *Punishment for attempt to commit or abet the commission of the offence*.—Whoever attempts to commit or abets the commission of an offence punishable under this Act, shall be liable to the punishment provided for such offences".

16. *Amendment of section 65 of the B.&O. Act II of 1915*.—In the proviso to section 65 of the said Act for the words and figures "XXII of the Code of Criminal Procedure, 1898 (5 of 1898)" the words and figures "XXI of the Code of Criminal Procedure, 1973 (Act 2 of 1974)" shall be substituted.

17. *Amendment of section 77 of the B. & O. Act II of 1915*.—In section 77 of the said Act for words "Chapter XV of the Code of Criminal Procedure, 1898" the words "Chapter XIII of the Code of Criminal Procedure, 1973 (Act 2 of 1974)" shall be substituted.

18. *Amendment of section 78 of the B. & O. Act II of 1915*.—(a) In section 78 of the said Act for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898)" the words and figures "Code of Criminal Procedure, 1973 (Act 2 of 1974)" shall be substituted.

(b) In clause (b) shall be substituted for the figure "54" the figure "41" and for the figure "56" of sub-section (i) figure "55" shall be substituted.

19. *Amendment of section 79 of the B. & O. Act II of 1915*.—(a) For sub-section (4) of section 79 of the said Act, the following sub-section shall be substituted:—

"(4) Whenever any person is arrested for any offence punishable under any section of this Act other than section 47, section 49, section 55 or section 56 of the Act, otherwise than under a warrant, and is prepared to give bail, he shall be released on bail or, at the discretion of the officer releasing him on his own bond. The offences punishable under section

47, section 49, section 55 and section 56 shall be non-bailable and the provisions of the Code of Criminal Procedure, 1973 (Act 2 of 1974) in this regard shall apply to such offences."

(b) For sub-section (7) of section 79 of the said Act, the following sub-section shall be substituted, namely :—

"(7) The provision of section 40 to 445, 446 and 449 of the Code of Criminal Procedure, 1973 (Act II of 1974), shall apply, so far, as may be, in every case in which bail is accepted or a bond taken under this section".

20. *Amendment of section 84 of the B & O. Act II of 1915.*—In sub-section (2) of section 84 of the said Act for the words and figures "section 167 of the Code of Criminal Procedure, 1898 (5 of 1898)" the words and figures "section 167 of the Code of Criminal Procedure, 1973 (Act 2 of 1974)" shall be substituted.

21. *Amendment of section 85 of the B. & O. Act II of 1915.*—In section 85 of the said Act for the figures "1898" the figures "1973" shall be substituted.

22. *Substitution of a new section for section 86A of the B & O. Act II of 1915.*—For section 86A of the said Act, the following section shall be substituted, namely :—

"86A. *Scales of punishment from the date of publication of this Ordinance.*—Any person found guilty of any offence against the provision of Bihar and Orissa Excise Act from the date of publication of this Act shall be punished according to the existing scales of punishment as provided under the Act."

23. *Amendment of section 88 and 89 of the B & O. Act II of 1915.*—In sections 88 and 89 of the said Act for the figures and word "1898 (5 of 1898)" the figures and words "1973 (Act 2 of 1974)" shall be substituted.

THE BIHAR ENTERTAINMENT TAX (AMENEMENT) ORDINANCE, 1984

Published in the *Bihar Gazette*, (Ext.), dated December 8, 1984.

BIHAR ORDINANCE NO. 16. OF 1984

An Ordinance to amend the Bihar Entertainment Tax Act, 1948 (Bihar Act, 35 of 1948).

Preamble.—Whereas the Legislature of the State of Bihar is not in Session ;

And, Whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Entertainment Tax Act, 1948.

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Bihar Entertainment Tax (Amendment) Ordinance, 1984.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. *Insertion of new section 3-A, 3-B, 3-C, 3-D, 3-E, and 3-F in the Bihar Act 35 of 1948.*—After section 3 of the Bihar Entertainment Tax Act, 1948

(Bihar Act XXXV of 1948) (hereinafter referred to as the said Act), the following new sections shall be inserted namely :—

“3-A. Consolidated payment of tax.—Notwithstanding anything contained in the Act, the State Government, by notification, may levy consolidated amount of tax not exceeding 45% and not below 10% of the gross collection capacity for every show and such amount of tax shall be paid by the Proprietor of an entertainment to the State Government :

Provided that the State Government shall for the purpose of levy of consolidated amount of tax, classify place in categories of the fixation of such percentage, and the rate of consolidated tax shall be uniform for a particular class of places. The State Government shall for the purpose of classification, take into account the type of place, its location, population, industrial growth, type of market.

Explanation —“Gross collection capacity” shall mean the total amount calculated for total seating capacity of the theatre which shall include the admission fee, tax or surcharge or charge for any privilege, right facility, service or thing combined with the right of admission to any entertainment.

3-B. Compounding of Tax.—(1) The State Government may, in lieu of tax payable under section 3-A on application of a proprietor, in the form prescribed under sub-section (2) of section 3-F, on such conditions, as may be prescribed, permit him to pay a fixed amount or a fixed percentage of gross collection capacity for a specified number of shows in a specified period irrespective of actual number of shows which may be held in that period.

(2) A proprietor intending to pay tax under sub-section (1) shall apply in the prescribed form to the Commissioner or any other officer, specially authorised by the Commissioner through the Deputy/Assistant Commissioner/Commercial Tax Officer, I/G of the Circle/Sub-circle not less than 15 days before the commencement of the period for which the proprietor intends to pay tax under sub-section (1).

(3) On receipt of application, the Commissioner or any other officer specially authorised by the Commissioner, shall, after making such enquiry as he may deem necessary, permit the proprietor in the form prescribed under sub-section (3) of section 3-F to pay fixed sum in accordance with sub-section (1).

(4) The option permitted under sub-section (3) shall continue to be in force till the end of the financial year in which such option is permitted.

(5) The amount of tax specified in the permission granted under sub-section (3) shall be paid to the State Government in the prescribed manner in advance weekly before the week begins.

3-C Tax on commercial Video exhibition.—Notwithstanding anything contained in the Act, in the case of commercial exhibition of films on Video specified in column (1) of the Table below, irrespective of whether the show is combined with any service or transport or supply of any goods for which a lump sum is charged from a person, there shall be levied and paid by the proprietor of such entertainment to the State Government, a tax

at such rates not exceeding the rates specified in the corresponding entry in column (2) thereof, as the State Government may fix by a notification issued in this behalf :—

TABLE

1	2
	Rs. per week
(i) Video of up to 65 cm screen	2,000
(ii) Video of above 65 cm and up to 100cm screen, and	2,500
(iii) Video of above 100 cm screen	3,500

3-D. Application of certain provisions.—Where tax is levied under section 3A and section 3-C, except expressly otherwise provided, that provisions of sub-sections (1) and (2) of section 3 clause (b) of section 5-A of the Act and provisions of Rules 9, 11, 12, 15, 22 and 23 of the Bihar Entertainment Tax Rules, 1984 and where a proprietor is permitted to pay a fixed sum under sub-section (3) of section 3-E, so long a proprietor complies with all the terms and conditions specified in the permission granted under sub-section (3) of section 3-B, except expressly provided, the provisions of sub-sections (1) and (2) of section 3, clauses (b) and (c) of sub-section (1) of section 5, clause (ii) of section 5-A, and section 9-B and the provisions of Rule 9, 11, 12, 15, 22, 23 and 33 of the Bihar Entertainment Tax Rules, 1984, shall not apply :

Provided that no person other than a person who has some duty to perform in connection with the entertainment or a duty imposed upon him by or under this Act or any other law shall be admitted without a ticket. The ticket shall contain the name of the theatre, class to which it is valid and the rate of admission, and such ticket shall be serially numbered from 000001 to 100000 and repeated in like rotation.

3E. Exemption of tax in certain cases.—No tax shall be levied under sub-section (1) of section 3, section 3-A and section 3-B of the Act in respect of entertainments or films exempted under sub-section (2) of section 10 of the Act, if a proprietor sells tickets not above the rate of admission fee (excluding the amount of entertainment tax) approved by the State Government and in such case, a proprietor shall pay to the State Government only the tax levied under sub-section (2) of section 3 of the Act.

3F. Forms for weekly return and application for permission and permission to pay compounded tax.—(1) Every proprietor of an entertainment liable to pay tax under section 3-A or opting to pay tax under section 3-B shall furnish to the Deputy/Assistant Commissioner/Commercial Taxes Officer of the Circle/Sub-circle I/C, a duly signed weekly return in form A prescribed below on or latest by Wednesday following the week to which the return relates :

FORM A

Weekly return under section 3-A/3-B of the Bihar Entertainment Tax Act, 1948 to be furnished by proprietor

To
The Deputy/Assistant Commissioner, Commercial Taxes Officer I/C,
... .. Circle/Sub-circle.

I, ..., the proprietor of... ..
situated at... .. in the district of furnish herewith
the following particulars for the week ending :—

- (i) Registration No.
- (ii) Category u/s 3-A/3-B
- (iii) Class of theatre—70mm
35mm
Air-conditioned
Air-cooled
Ordinary (delete which not applicable)
- (iv) Period of return
- (v) Seating capacity of the theatre

Serial No.	Class	Rate of admission	No. of seats	Gross collection (cols. 3 and 4)
1	2	3	4	5

Total seats

Total collection capacity... ..
Tax a... .. on Gross collection capacity.

- (vi) No. of shows held during the week :—

Name of picture screened on No. of shows of each picture

- (a) Of Taxable films :
- (b) Tax-free Films

(vii) Amount of tax payable u/s 3-A/3-B... ..% Rs... ..Tax
u/s 3(2) Rs.....

- (viii) Amount of entertainment Tax paid

- (ix) Challan No. and date.....

I, ... declare that, to the best of my knowledge
and belief, the information furnished above are true and correct.

Place
Date

Signature
Status and relation with the
proprietor.

(2) The application for permission to pay tax under section 3-B
shall be in the form below :—

FORM B .

Application for permission to pay tax under sub-section (1) of section 3-B of the Bihar Entertainment Tax Act, 1984.

I, ..., the proprietor of.... .. situated at... .. in the district of... .. whose particulars are given below hereby signify my intention to opt for the payment of fixed amount of tax payable under sub-section (1) of section 3-B in respect of the shows to be held in the said theatre. I hereby apply for permission to pay tax under the above mentioned section and agree to abide by the rules and conditions prescribed—

1. Name and address of the theatre in respect of which application is made.
2. Registration number and date :
3. Number and date of licence granted under the Bihar Cinema (Regulation) Rules.
4. Date from which the applicant opts to pay tax under section 3-B.
5. (a) Name of proprietor
(b) Name of other partners, if any
6. (a) Category of theatre assigned in section 3-A
(b) Class of theatre 76 mm/35mm/16mm A.C./Air-cooled ordinary (delete which is not applicable).
- 7.

Name of classes	Rate of admission	Number of seats	Gross collection (col. 2 and col. 3)
1	2	3	4

Total

8. Tax payable every week under sub-section (1) of section 3-B with reference to gross collection capacity worked out in col. 4 above.....

I, ... declare that to the best of my knowledge and belief the information furnished above are true and complete.

Place

Date..

Signature of the applicant
and status and relation with
the proprietor.

(To be filled by the Incharge of the Circle/Sub-circle).

I, ..., Deputy/Assistant Commissioner/Commercial Taxes Officer, Incharge... .. Circle/Sub-circle at, ... certify that the information furnished above by the proprietor, are true, to the best of my knowledge and belief.

Place—

Date—

Official seal

Signature.

Designation

(3) The permission to pay tax under section 3-B shall be in the form below :—

FORM C

Permission to pay entertainment tax under section 3-B of the Bihar Entertainment Tax Act, 1948

Whereas Sri..... proprietor of 70mm/35mm/16mm/Air-conditioned/Air-cooled/ordinary theatre known as... .. situated at... .. in the district of..... has applied for compounding of tax under sub-section (1) of section 3-B, I hereby permit the said proprietor to pay Rs.. .. (in words) per week commencing from... .. subject to the following conditions :—

1. The amount of tax payable has been determined on the following information furnished by the proprietor in the application and certified by the... .. of... .. Circle/Sub-Circle :—

Name of classes.	Number of seats.	Rates of admission.	Gross collection.
---------------------	---------------------	------------------------	----------------------

2. The amount of tax shall be deposited by the proprietor in advance for every week before the week begins and default in any payment shall invalidate this permission and in such case it shall be deemed that no permission has been granted.

3. The permission shall be valid from..... to.. ..

4. This permission may be revoked, suspended or cancelled at any time and no compensation shall be payable by the Government on account of any loss caused to the proprietor by reason of such revocation, suspension or cancellation.

5. The proprietor shall abide by the provisions of the Bihar Entertainment Tax Act and the rules framed thereunder in so far as they are applicable to him.

6. A correct and complete statement shall be maintained by the proprietor in duplicate in respect of the number of tickets of each class issued and sold for each show and the amount received for such tickets issued and sold by using double side carbon paper so as to make impressions on reverse side of the statement also. The entries in the statement shall be written up and the accounts closed within 60 minutes or interval of the show whichever falls earlier and shall be produced before the Inspecting Officer at the time of inspection.

7. The proprietor shall not make any alternation in the seats and rate of admission without prior written permission of the Commissioner.

8. The proprietor shall not admit any person in excess of seats and shall not realise any amount from any person in excess of the rater specified in (1) above, contravention of which shall make the proprietor from the commencement of the permission liable to pay tax applicable to the gross collection capacity on the basis of excess persons and realisation of excess amount of admission fee. The proprietor shall also be liable to penalty under section 13-A and 13-C.

9. The proprietor shall furnish to the Deputy/Assistant Commissioner/Commercial Taxes Officer of the Circle/Sub-Circle a duly signed prescribed in sub-section (1) of section 3-F.

Place

Date

Seal.

Signature
Designation

3. *Amendment of section 9 of Bihar Act 35 of 1984.*—In section 9 of the said Act,—

(i) for sub-section (5) the following sub-section shall be substituted :

“(5) Where the proprietor fails to make payment of the amount of consolidated or compounded tax under sub-section (5) of section 3 or section 3-B or section 3-C or fails to make payment of the entertainment tax due according to the return furnished under sub-section (1) of this section within the prescribed period without prejudice to any action which is or may be taken under clause (b) of sub-section (1) of section 16, the prescribed authority shall after giving such proprietor an opportunity of being heard, impose a penalty which may extend to three per centum of the amount of tax for each of the first three months following the due date and to six per centum for each subsequent month or part thereof” and

(ii) The proviso to sub-section (8) shall be omitted.

4. *Amendment of section 9-B of Bihar Act 35 of 1948.*—The proviso to section 9-B of the said Act shall be omitted.

5. *Amendment of section 13-D of Bihar Act 35 of 1948.*—In section 13-D for the words and figures “Under sub-section (1) in section 9-B” the word and figure “Section 9-B” shall be substituted.

6. *Amendment of section 19 of Bihar Act 35 of 1948.*—Section 19 of the said Act shall be omitted.

Published in the *Bihar Gazette (Ext.)*, dated January 2, 1985

TRANSPORT DEPARTMENT

S. O. I.—(*The 2nd January 1985*)—In exercise of the powers conferred by sub-sections (1) and (4) of section 110 of the **Motor Vehicles Act 1939** (IV of 1939), the State Government is pleased to constitute **Motor Accident Claims Tribunals** for the judgeship of (i) Gopalganj, (ii) Nawada, and (iii) Deoghar wherein the District and Session Judge of the respective districts are appointed as Claims Tribunals to be designated as Claims Tribunal in their respective jurisdiction for the purpose of adjudication upon claims for compensation in respect of accidents involving the death or bodily injury to persons arising out of the use of Motor Vehicles or damage to any property of a third party so arising or both, and order that the filing of the claims cases be made before the Motor Accident Claims Tribunal, who may have power to transfer such cases to the Additional Motor Accident Claims Tribunal of the judgeship.

Published in the *Bihar Gazette (Ext.)*, Part III, dated February 20, 1985

HIGH COURT OF JUDICATURE AT PATNA.

No. 430-R —(*The 21st December 1984/30th Agrayana, 1906 (S.)*)—The following special rules framed by the High Court under contempt of Court Act, 1971 (Act 70 of 1971) of the Patna High Courts Rules, are published for general information :—

RULES UNDER THE CONTEMPT OF COURTS ACT, 1971 (ACT 70 OF 1971).

1. (i) These rules shall be called the contempt of Courts (Patna High Courts) Rules

(ii) They shall come into force on the date of their publication in the official Gazette.

2. In these Rules unless there is anything repugnant to the subject or context—

(a) 'Act' means the Contempt of Courts Act, 1971 (Act 70 of 1971).

(b) 'High Court' means the High Court of Judicature at Patna.

(c) 'Judge' means Judge of the High Court of Judicature at Patna.

(d) 'Subordinate Court' means any Court subordinate to the High Court of Judicature at Patna.

(e) 'Registrar' means the Registrar of the High Court of Judicature at Patna and includes the Additional Registrar, Ranchi Bench.

(f) All other words and expressions used in these rules, but not defined therein, shall have the meanings respectively assigned to them in the Act.

3. (i) Every petition for initiating a proceeding for civil contempt within the meaning of the Act shall be registered as Miscellaneous Judicial Case whereas petitions for initiating proceedings for criminal contempt shall be registered as Original Criminal Miscellaneous Cases.

(ii) In every such petition the State of Bihar shall be made a respondent.

(iii) Every such petition shall contain—

(a) name, description and place of residence of the petitioner or petitioners and of person or persons charged ;

(b) nature of the contempt, alleged and such material facts including

the date or dates of the commission of the alleged contempt, as may be necessary for proper determination of the case ;

(c) if a petition has previously been made by him on the same facts, the petitioner shall give the details of the petition previously made and shall also indicate the result thereof ;

(iv) the petition shall be supported by an affidavit.

(v) Where the petitioner relies upon a document or documents in his possession or power, he shall file such document or documents or true copies thereof with the petition.

(vi) No court-fee shall be payable on the petition, and on any document filed in the proceeding.

4. A petition for civil contempt as well as for criminal contempt shall be filed before the Registrar of the High Court.

5. Every motion made by the Advocate General under section 15 of the Act shall state the allegations of the facts and the view of the motion maker that in relation to those facts contempt appears to have been committed of which Courts should take cognizance and take further action. The motion should contain sufficient material to indicate why the Advocate-General is inclined to move the Court.

6. Every petition for initiating a contempt proceeding shall be posted before a Bench of the Court for preliminary hearing and for orders as to issue of notice except petition in respect of civil contempt which relate to orders or directions passed by a judge of this Court shall be listed for preliminary hearing and others as to issue of notice before a judge of this Court. Upon such preliminary hearing the Court if satisfied that no *prima-facie* case has been made out for issue of notice may dismiss the petition and if not so satisfied direct that notice of the petition be issued to the contemner.

7. (i) The notice to the person charged shall be issued in Form I. When action is instituted on a petition a copy of the petition along with the annexures and affidavits shall be served upon the person charged.

(ii) The person charged may file his reply/show cause duly supported by an affidavit or affidavits.

(iii) The person charged shall, unless otherwise ordered, appear in person before the Court as directed on the date fixed for hearing of the proceeding, and shall continue or remain present during the hearing till the proceeding is finally disposed of by the order of the Court.

8. The Court may direct the Advocate-General or any other State counsel to appear and assist the Court.

9. The Court may, in appropriate cases before initiating proceeding for contempt against the contemner issue notices to such contemner directing him to show cause as to why a proceeding for contempt be not initiated against him. In such cases, it shall not be necessary for the alleged contemner to be present in Court and question of initiating a proceeding for contempt shall be considered on the basis of the show cause filed.

10. The notice of every proceeding or contempt shall be served personally on the person charged unless the Court, for the reason recorded directs otherwise. In that event, the service may be effected by alternative form of service authorised by the Code of Civil Procedure or Code of Criminal Procedure, as the case may be.

11. (i) The Court may, if it has reason to believe that the person charged is absconding or is otherwise evading service of notice or if he fails to appear in person or to continue to remain present in person in pursuance of the notice, direct a warrant bailable or non-bailable for his arrest, addressed to one or more police officers may order attachment of property. The warrant and the writ of attachment shall be issued under the signature of Registrar. The warrant shall be in Form II and shall be executed, as far as may be in the manner provided for execution of warrants under the Code of Criminal Procedure.

(ii) The warrant shall be executed by the officer or officers to whom it is directed and may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

(iii) Every person who is arrested and detained shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate, who shall authorise detention for the period till such person is produced before the High Court.

(iv) Every person who is arrested and detained when produced before the High Court, shall be released on bail if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties, with condition that the persons charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court :

Provided further that the Court may if it thinks fit, instead of taking bail from such person shall release him on his execution of a bond without sureties for his attendance as aforesaid or without executing any such bond. The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be apply to all the bonds executed under the Rules.

12. If it appears to the Court that an enquiry should be held in which witnesses have to be examined, the Court may make order for purpose of securing the attendance of any person to be examined as a witness and for discovery or production of any document.

13 The Court may pass such order as it thinks fit consistent with the provisions of the Act.

14. Where contempt is committed in the presence of Court, or during the hearing of a case by the Court, the proceeding initiated for such contempt shall be conducted in accordance with the procedure prescribed by section 14 of the Act.

15. (i) Reference under section 15(2) of the Act may be made by a subordinate court either *suo motu* or on application received by it.

(ii) Before making a reference the subordinate court shall hold a preliminary enquiry by issuing a show cause notice accompanied by copies of the relevant documents, if any, to the contemner and after hearing him the subordinate court shall write a concise reasoned order of reference indicating why contempt appears to have been committed.

16. The Patna High Court Rules which are not inconsistent with the provisions of these Rules *mutatis mutandis* shall apply to the proceedings in the High Court.

17. Where a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a warrant of commitment and detention

shall be made out in Form III under the signature of the Registrar. Every such warrant shall remain in force until it is cancelled by the order of the Court or until it is executed. The Superintendent of the Jail shall in pursuance of the order receive the person so adjudged and detain him in custody for the period specified therein, or until further orders.

18. *Appeal*.—The appeal presented to the Court against the decision of a single judge under section 19(i)(a) of the Act shall be filed in accordance with the Patna High Court Rules meant for Letters Patent Appeals and such appeal shall be placed before a Division Bench for admission and hearing. After admission of the appeal, the provisions regarding issuance of notice and preparation of Paper Book shall be governed by the Patna High Court Rules meant for Letters Patent Appeals.

19. The provisions of the Code of Criminal Procedure, 1973, which are not inconsistent with the provisions of the Act and these Rules, shall be applicable to enforce and execute the orders passed by the High Court in proceedings for contempt.

FORM I
NOTICE TO A PERSON CHARGED WITH CONTEMPT OF COURT

(See Rule 7)

IN THE HIGH COURT OF JUDICATURE AT PATNA.

Whereas your attendance is necessary to answer a charge of contempt of Court by (here briefly state nature of the contempt)

You are hereby required to appear to in person (or by advocate if the Court has so ordered) before this Court at Patna on the day of 19

You shall attend the Court in person on the day of and shall continue to attend the Court on all days thereafter to which the case against you stands adjourned and until final orders are passed on the charge against you.

Herein fail not

Dated this

(SEAL)

day of

19

Registrar.

To be omitted where the person charged is allowed or ordered to appear by advocate.

FORM II
WARRANT OF ARREST

(See Rule 11)

IN THE HIGH COURT OF JUDICATURE AT PATNA.

To

(Name and designation of the person or persons who is or are to execute the warrant).

Whereas of is charged with committing contempt of this Court you are hereby directed to arrest the said and to produce him before this Court.

Herein fail not.

(If the Court has issued a bailable warrant, the following endorsement shall be made on the warrant).

If the said . . . shall give bail in the sum of Rs
 with one surety in the sum of Rs.
 (or two sureties each in the sum of Rs.) to attend
 before this Court on the . . . day of . . . 19 . . . , to
 continue so to attend untill otherwise directed by this Court, he may be
 released.

Dated this . . . day of . . . 19
 (SEAL)

Registrar.

FORM III
 WARRANT OF COMMITMENT FOR CONTEMPT.
 (See Rule 17)
 IN THE HIGH COURT OF JUDICATURE AT PATNA

To the Superintendent of the Jail at.....

Whereas at the Court holden on this day (name and description of the
 contemner) has been adjudged by the Court guilty of wilful contempt of
 Court, and he has been sentenced to suffer imprisonment for the period
 (here specify the term) and/or to pay a fine of
 rupees.....

This is to authorise and require you' the superintendent of the said
 Jail, to receive the said (name of the contemner) into your custody, to-
 gather with this warrant, and him safely to keep in the said Jail for the
 said period of (term of imprisonment) or for such shorter period as may
 hereafter be fixed by order of this Court and intimated to you. You are
 directed to return this warrant with an endorsement certifying the manner
 of its execution.

You are further directed that while the said is in
 your custody, produce the said before this Court, at
 all times when the Court shall so direct.

Given under my hand and the seal of the Court, this.....
 day of 19 . . .

(SEAL)

By order of the High Court.
 B. N. SINHA,
 Registrar.

THE BIHAR MOLASSES (CONTROL) (AMENDMENT)
 ORDINANCE, 1984

Published in the *Bihar Gazette* dated February 4, 1985.

BIHAR ORDINANCE NO. 2 OF 1985

An Act to amend the Bihar Molasses (Control) Act, 1947.

Whereas, the Legislature of the State of Bihar is not in session ;

And, whereas the Governor of Bihar is satisfied that circumstances
 exist which render it necessary for him to take immediate action to amend
 the Bihar Molasses (Control) Act, 1947 (Bihar Act 6, 1947 in the manner
 hereinafter appearing ;

And, whereas, the instructions of the President of India under the
 proviso to clause (1) of Article 213 of the Constitution of India have been

obtained ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title and commencement*—(i) This Ordinance may be called the Bihar Molasses (Control) (Amendment) Ordinance, 1984.

(ii) It shall come into force at once.

2. *Amendment of section 2 of Bihar Act VI of 1957*.—In section 2 of the Bihar Molasses (Control) Act, 1947 (Bihar Act VI of 1947) (hereinafter referred to as the said Act),—

(i) For clause (d) the following clause shall be substituted, namely :—

“(d) ‘Stockist’ means any person holding stocks of molasses for distillation, or for purposes of sale or resale under a licence granted under this Act.”

(ii) After clause (g), the following clause shall be added, namely ;—

“(h) ‘Board’ means Board of Revenue.”

3. *Substitution of new section for section 4 of Bihar Act VI of 1947*.—For section 4 of the said Act, the following section shall be substituted, namely :—

“4 No molasses produced in the State nor any molasses held by the stockists in the State, shall without the permission of the Controller be moved by rail, road or river from any place in the State to any other place therein :

Provided that where an agreement or contract for the supply of molasses has been entered into in accordance with the provisions of section 5 when the Controller has issued direction under section 6, permission for such movement shall not be refused by the Controller :

Provided further that the Controller shall not issue movement order for any molasses except on payment of the permit fee by the person desiring to move molasses, as may be prescribed by State Government from time to time by notification in the Official Gazette :

Provided further also that no movement permit shall be required for movement of any molasses to distilleries of this State.”

4. *Insertion of a new section 8-C in Bihar Act VI of 1947*.—After section 8-B of the said Act, the following section shall be inserted namely :—

“8-C. *Funds for regulation of adequate storage facilities in respect of molasses*—(i) Every owner, occupier and manager of a sugar factory shall for the purposes of construction and maintenance of adequate facilities for the storage of molasses, place in a separate fund such amount calculated at the rate as may be prescribed by the Government by notification :

Provided that the amount as aforesaid shall not exceed one-third of the price received in accordance with the rate prescribed in the Schedule referred in section 8-A :

(ii) The fund referred to in sub-section (i) above shall be accounted for, maintained and operated in the manner prescribed by rule framed in that behalf ”

5. *Amendment of section 10 of Bihar Act VI of 1947*.—After the proviso to section 10 of the said Act, the following proviso shall be added, namely :—

“Provided further that—

(i) (a) The Controller of Molasses may accept from any person, who is reasonably of having committed an offence punishable under this section a payment of a sum not exceeding rupees ten thousand in lieu of prosecution or by way of composition for such offences as the case may be; and

(b) In any case in which any molasses has been seized as being liable to confiscation under this Act, may at any time before the Magistrate has passed an order under this section release the molasses on payment of any sum not exceeding the value thereof as estimated by the Controller of Molasses including the administrative charges and movement permit fee.

(ii) When the payments referred to above has been duly made the accused person, if in custody, shall be discharged and the molasses seized (if any) shall be released and no further proceeding shall be taken against such person or molasses.

6 *Substitution of new section for 10-A of Bihar Act VI of 1947.*—For section 10-A of the said Act, the following shall be substituted namely:—

“10-A. (1) An appeal shall lie to the Board from any order made by the Controller of Molasses under section 10 of the Act :

Provided that every memorandum of appeal shall be submitted within fifteen days from the date of communication to the appellant of the order appealed against and shall be accompanied by order appealed against in original or by an authenticated copy of such order unless the omission to produce such order or copy is explained to the satisfaction of the Board.

(2) The State Government may on its own motion, or on the application of any aggrieved person, revise any order passed under this Act by the Controller, except an order passed under section 10 of the Act :

Provided that no application shall be entertained under this section unless it is made within thirty days of the order complained of.”

7. *Insertion of a new clause (ff) after clause (f) in sub-section (2) of section 13 of Bihar Act VI of 1947.*—After clause (f) of sub-section (2) of section 13 of the said Act the following clause shall be inserted, namely:—

“(ff) prescribe the manner in which accounts of funds for regulation of adequate storage facilities in respect of molasses produced in factories shall be maintained and operated.”

Dated 1st February 1985.

A. R. KINDWAL,
Governor of Bihar.

THE BIHAR AND ORISSA EXCISE (AMENDMENT) ORDINANCE, 1985

Published in the *Bihar Govt. Gazette (Ext.)* dated May 1, 1985.

BIHAR ORDINANCE NO. 7 OF 1985

An Ordinance to amend the Bihar and Orissa Excise Act, 1985.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act, 2 of 1915), in the manner hereinafter appearing :

Now, therefore, in exercise of powers conferred by clause (1) of Article

213 of the Constitution of India the Governor is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Bihar and Orissa Excise (Amendment) Ordinance 1985**.

(2) It shall come into force at once.

2. *Amendment of section 1 of Bihar and Orissa Act II of 1915.*—For sub-section (1) of section 1 of the Bihar and Orissa Excise Act, 1915 (B & O. Act II of 1915) (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely :—

“(1) This Act may be called the Bihar Excise Act, 1915.”

3. *Amendment of section 2 of B & O. Act II of 1915.*—In section 2 of the said Act,—

(i) after clause (10) the following clause shall be inserted, namely :—

“(11) ‘hemp plant’ means the ‘plant cannabis sativa’;

(ii) for clause (12a) the following clause shall be substituted, namely :—

“(12a) ‘intoxicant’ means—

(1) any liquor, or

(2) any substance from which liquor may be distilled and which is declared by the State Government by notification in the Official Gazette to be an intoxicant for the purpose of this Act, or

(3) intoxicating drugs or

(4) Medicinal preparation as defined under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.”

4. *Amendment of section 19 of the B and O Act II of 1915.*—In section 19 of the said Act,—

(a) for the heading, the following heading shall be substituted, namely :—

“possession and consumption of intoxicants generally”;

(b) for sub-section (4) the following sub-section shall be substituted namely :—

“(4) Notwithstanding anything contained in this Act and the Dangerous Drugs Act, 1930 (Act II of 1930), the State Government may, by notification prohibit the possession, consumption or both by any person or class of persons or subject to such exceptions, if any, as may be specified in the notification, by all persons in the State of Bihar or in any specified local area, of any intoxicant either absolutely or subject to such conditions as it may prescribe.”

5. *Amendment of section 25 of the B & O Act II of 1915.*—(1) In section 25 of the said Act, for the word “Eighteen” the word “twenty-one” shall be substituted wherever it occurs.

6. *Amendment of section 31 of the B & O Act II of 1915.*—In section 31 of the said Act,—

(a) in clause (d) of sub-section (1).—

(i) after the words “Chairman of each municipality” the words “and Mayor of a Corporation” shall be inserted, and

(ii) at the end of the sentence the words “and Municipal Corporation” shall be added.

7. *Amendment of section 33 of the B & O Act II of 1915.*—In section 33 of the said Act,—

(i) in clauses (a) and (b) of sub-section 1 after the word "municipality" the words "or Corporation" shall be inserted ;

(ii) in sub-section 2, after the word "Municipality" the words "or Corporation" and after the words "Chairman of the Municipality" the words "or Mayor of a Corporation" shall be inserted ;

(iii) in sub-section 3 after the word "Municipality" the words "or Mayor of a Corporation" shall be inserted ;

(iv) in clause (i) of sub-section (3) after the words "in the case of a Municipality" the words "or Mayor, as the case may be" shall be inserted :

(v) in clause (iii) after the words "Municipal Commissioner" the words "or Councillor of a Corporation" shall be inserted.

8. *Amendment of section 55 of the B & O Act II of 1915.*—In the heading of section 35 of the said Act the words "or Board" shall be omitted.

9. *Amendment of section 42 of the B & O Act II of 1915*—In section 42 of the said Act, after sub-section 2, the following new sub-section shall be inserted and the existing sub-section (3) shall be renumbered as sub-section (4) :—

"(3) When a licence, permit or pass is liable to be cancelled it may at the discretion of the authority who granted the same, be suspended for a period of ninety days at a time, provided the authority concerned may extend the period of suspension beyond ninety days, under exceptional circumstances, after recording reasons for the same."

10. *Substitution of new section for section 47 of the B. & O. Act II of 1915.*—For section 47 of the said Act the following section shall be substituted, namely—

"47. *Penalty for unlawful import, export, transport, manufacture, possession, consumption, sale etc.*—If any person, in contravention of this Act, or of any rule, notification, or order made, issued or given or license, permit or pass granted under this Act—

(a) imports, exports, transports, manufactures, possesses, consumes or sells any intoxicant ; or

(b) cultivates any hemp-plant ; or

(c) collects or sells any portion of the hemp-plant from which an intoxicating drug can be manufactured or produced ; or

(d) bottles any liquor for purpose of sale ; or

(e) works any distillery or brewery ; or

(f) uses, keeps or has in his possession any material still, utensil, implement or apparatus whatever for the purpose of manufacturing any intoxicant other than *tari* ; or

(g) establishes any distillery, brewery or warehouse ;

(h) removes any intoxicant from any distillery, brewery, warehouses, other place of storage licensed, established, authorised or continued under this Act,

he shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine which may extend to five thousand rupees and in default of payment of fine, he shall be punished with a further imprisonment for a term which may extend to one year :

Provided that this punishment shall be—

(1) for the first offence he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees and in default of payment of fine, a further imprisonment for a term of fifteen days ;

(2) for the second and subsequent offences he shall be liable for imprisonment for a term which shall not be less than six month and a fine of not less than one thousand rupees and in default of payment of fine a further imprisonment for a term of one month."

11. *Insertion of a new section 47A after section 47 in B & O. Act II of 1915*—After section 47, the following new section 47A shall be inserted, namely :—

"47-A *Penalty for offences committed by any Company.*—Where any offence punishable under this Act is committed by a Company, and it is proved that the offence has been committed with the consent or convenience of or is attributable to any neglect on the part of any Director, Manager, Secretary, Agent, Officer or person concerned in the management of the Company, such Director, Manager, Secretary, Agent, Officer or person concerned shall be liable to be proceeded against and punished accordingly.

For the purpose of this section—

(a) 'Company' means a body corporate and includes a firm or other association of individuals ; and

(b) 'Director' in relation a to firm means a partner of the firm."

12. *Substitution of new section for section 49 of the B. & O. Act II of 1915.*—For section 49 of the said Act the following section shall be substituted, namely :—

"49. *Penalty for altering or attempting to alter any denatured spirit.*—If any person alters or attempts to alter any denatured spirit, whether manufactured in India or not, with the intention that such spirit may be used for human consumption, whether as a beverage or internally as a medicine or in any other way, whatsoever, by any method whatsoever ; or has in his possession any spirit in respect of which he knows or has reasons to believe that any such alteration or attempt has been made ;

he shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to five thousand rupees and in default of payment of fine, shall be punished with a further imprisonment for a term which may extend to one year :

Provided that this punishment shall be—

(1) for the first offence he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees, and in default of payment of fine, a further imprisonment for a term of fifteen days ;

(2) for the second and subsequent offences, he shall be liable for imprisonment for a term which shall not be less than six months and a fine of not less than one thousand rupees, and in default of payment of fine, a further imprisonment for a term of one month."

13. *Amendment of section 54 of the B. & O. Act II of 1915.*—In section 54 of the said Act, for the word 'Eighteen' the word "twenty-one" shall be substituted.

14. *Substitution of a new section for section 55 of the B. & O. Act II of 1915.*—For section 55 of the said Act the following section shall be substituted, namely :—

“55. *Penalty for possession of intoxicant in respect of which an offence has been committed.*—If any person, without lawful authority, has in his possession, any quantity of any intoxicant, knowing or having reason to believe the same to have been unlawful imported, transported, manufactured, or knowing or having reason to believe that the prescribed duty has not been paid thereon, he shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to five thousand rupees in default of payment of fine, shall be punished with a further imprisonment for a term which may extend to one year :

Provided that, except for such small quantities of intoxicant as may be specified in this behalf, the punishment for the offence shall be—

(a) for the first offence, he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees, and in default of payment of fine further imprisonment for a term of fifteen days :—

(b) for the second and subsequent offences, imprisonment for a term which shall not be less than six months, and a fine of not less than one thousand rupees and in default of payment of fine a further imprisonment for a term of one month.”

15. *Substitution of a new section for section 64 of the B. & O. Act II of 1915.*—For section 64 of the said Act, the following section shall be substituted, namely :—

“64. *Punishment for attempt to commit or abet the commission of the offence.*—Whosoever attempts to commit or abets the commission of an offence punishable under this Act, shall be liable to the punishment provided for such offences.”

16. *Amendment of section 65 of the B. & O. Act II of 1915.*—In the proviso to section 65 of the said Act, for the words and figures “XXII of Code of Criminal Procedure, 1898 (5 of 1898)” the words and figures “XXI of the Code of Criminal Procedure, 1973 (Act 2 of 1974)” shall be substituted.

17. *Amendment of section 77 of the B. & O. Act II of 1915.*—In section 77 of the said Act for the words “Chapter XV of the Code of Criminal Procedure, 1898” the words “Chapter XIII of the Code of Criminal Procedure, 1973 (Act II of 1974)” shall be substituted.

18. *Amendment of section 78 of the B. & O. Act II of 1915.*—(a) In section 78 of the said Act for the words and figures “Code of Criminal Procedure, 1898 (5 of 1898)” the words “Chapter III of the Code of Criminal Procedure, 1973 (Act 2 of 1974)” shall be substituted.

(b) In clause (b) shall be substituted for the figures “54” the figure “41” and for the figure “56” of sub-section (i) figure “55” shall be substituted.

19. *Amendment of section 79 of the B. & O. Act II of 1915.*—(a) For sub-section 4 of section 79 of the said Act, the following sub-section shall

be substituted :—

“(4) Whenever any person is arrested for any offence punishable under any section of this Act other than section 47, section 49, section 55 or section 56 of the Act, otherwise than under a warrant, and is prepared to give bail, he shall be released on bail, or at the discretion of the officer releasing him on his bond. The offences punishable under section 47, section 49, section 55 and section 56 shall be non-bailable and the provisions of the Code of the Criminal Procedure, 1973 (Act 2 of 1974) in this regard shall apply to such offences.”

(b) For sub-section (7) of section 79 of the said Act, the following sub-section shall be substituted, namely :—

“(7) The provision of section 440 to section 444, 445, 446 and 449 of the Code of Criminal Procedure, 1973 (Act 2 of 1974), shall, apply so far as may be, in every case in which bail is accepted or a bond taken under this section.”

20. *Amendment of section 84 of the B. & O. Act II of 1915.*—In sub-section (2) of section 84 of the said Act for the words and figures “section 167 of the Code of Criminal Procedure, 1898 (5 of 1898)” the words and figures “section 167 of the Code of Criminal Procedure, 1973 (Act 2 of 1974)” shall be substituted.

21. *Amendment of section 85 of the B. & O. Act II of 1915.*—In section 85 of the said Act for the figures “1898” the figures “1973” shall be substituted.

22. *Substitution of a new section for a new section 86A of the B. & O. Act II of 1915.*—For section 86A of the said Act, the following section shall be substituted, namely :—

“86A. *Scales of punishment from the date of publication of this Ordinance.*—Any person found guilty of any offence against the provisions of Bihar and Orissa Excise Act from the date of publication of this Act, shall be punished according to the existing scales of punishment as provided under the Act.”

23. *Amendment of section 88 and 89 of the B. & O. Act II of 1915.*—In sections 88 and 89 of the said Act for the figures and word “1898 (5 of 1898)” the figures and words “1973 (Act 2 of 1974)” shall be substituted.

24. *Repeal and Savings.*—(1) The Bihar and Orissa Excise (Amendment) Ordinance, 1984 (Bihar Ordinance No. 14 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under the said Ordinance shall be deemed to have done or taken in exercise of powers conferred by or under this Ordinance as if this Ordinance was in force on the day on which such thing or action done or taken.

A. R. KIDWAI,
Governor of Bihar.

Dated the 1st March, 1985.

Published in *the Bihar Gazette, (Ext.)*, dated March 1, 1985

**THE BIHAR CONTINGENCY FUND (AMENDMENT)
ORDINANCE, 1985.**

BIHAR ORDINANCE NO. 10 OF 1985

An Ordinance to amend the Bihar Contingency Fund Act 1950

Promulgated by the Governor of Bihar in the thirty-fifth years of the Republic of India.

Preamble :—And, whereas, the Legislature of the State of Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Contingency Fund Act, 1950 (Bihar Act 19 of 1950), in the manner hereinafter appearing :

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title and Commencement*.—(1) This Ordinance may be called the Bihar Contingency Fund (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Amendment of section 4 of Bihar Act 19 of 1950*.—For the proviso to section 4 of the Bihar Contingency Fund Act, 1950 (Bihar Act 19 of 1950) hereinafter referred to as the said Act), the following proviso shall be substituted, namely :—

“Provided that during the period beginning on the date of commencement of the Bihar Contingency Fund (Amendment) Ordinance, 1984, and ending on 31st day of March, 1985, this section shall have effect subject to the modification that for the words “fifty crores of rupees the words “Two hundred and fifty crores of rupees” shall be submitted.”

3. *Amendment of section 5 of Bihar Act, 19 of 1950*.—In section 5 of the said Act the following proviso shall be added, namely :—

“Provided that if advance made from the Contingency Fund in any financial year is authorised by the State Legislature in the current financial year or in succeeding financial year and the amount of such authorisation exceeds the permanent corpus of the Fund, the amount in excess of the permanent corpus shall be placed to the credit of the Consolidated Fund of the State and not to the Contingency Fund.”

4. *Repeal and Savings*.—(1) The Bihar Contingency Fund Second Ordinance, 1984, (Bihar Ordinance No. 12 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Ordinance as if this Ordinance was in force on the day on which such thing or action was done or taken.

A. R. KIDWAI,
Governor of Bihar.

Dated the 1st March, 1985.

Published in *the Bihar Gazette, (Extra.)*, dated March 1st, 1985

**THE BIHAR NON-GOVERNMENT SECONDARY SCHOOL
(TAKING OVER OF MANAGEMENT AND CONTROL)
(AMENDMENT) ORDINANCE, 1985
BIHAR ORDINANCE NO. 11 OF 1985**

An Ordinance to amend the Bihar Non-Government Secondary School (Taking over of Management and Control) Act, 1981.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Non-Government Secondary School (Taking over of Management and Control) Act, 1981 (Bihar Act No. 33, 1982) in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Bihar Non-Government Secondary School (Taking over of Management and Control) (Amendment) Ordinance, 1985.

(ii) It shall extend to the whole of the State of Bihar.

(iii) It shall come into force at once.

2. *Amendment of section 2 of Bihar Act 33 of 1982.*—In clause (d) of section 2 of Bihar Non-Government Secondary School (Taking over of Management and Control) Act, 1981 (Bihar Act 33 of 1982) (hereinafter referred to as the said Act) for the words “any Trust, Association or Corporate Body” the words “any registered Trust, Association, Corporate Body, person or body of persons” shall be substituted.

3. *Amendment of section 19 of Bihar Act 33 of 1982.*—In section 19 of the said Act, for the words “Association or Corporate Body” the words “Association, Corporate Body, person, or body of persons” shall be substituted.

4. *Repeal and saving.*—(1) The Bihar Non-Government Secondary School (Taking over of Management and Control) (Amendment) Ordinance 1984 (Bihar Ordinance No. 15 of 1984) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing or action was done or taken

Dated the 1st March, 1985.

A. R. KIDWAI,
Governor of Bihar.

Published in *the Bihar Gazette (Ext.)*, dated May, 18, 1985
**THE BIHAR NON-GOVERNMENT SECONDARY SCHOOL,
 (TAKING OVER OF MANAGEMENT AND CONTROL)
 (AMENDMENT) SECOND ORDINANCE, 1985.**
BIHAR ORDINANCE NO. 17 OF 1985
 (Text not printed as it replaces Ordinance No. 11 of 1985, printed
 of p. 38) —*Editor*].

Published in *the Bihar Gazette (Ext.)* dated May 18, 1985.
**THE BIHAR AND ORISSA EXCISE SECOND
 (AMENDMENT) ORDINANCE, 1985**
BIHAR ORDINANCE NO. 20, 1985
 (Text not printed as it replaces Ordinance No. 7 of 1985, printed at
 Page 31) —*Editor*]

Published in *the Bihar Gazette (Ext.)*, dated March 1, 1985
**THE BIHAR ENTERTAINMENT TAX (AMENDMENT)
 ORDINANCE, 1985**
BIHAR ORDINANCE NO. 9, 1985
 (Text omitted as it replaces Bihar Ordinance No. 16 of 1984, printed
 at p. 18 of Part VII, 1985) —*Editor*].

Published in *the Bihar Gazette (Ext.)*, dated May 18, 1985.
**THE BIHAR ENTERTAINMENT TAX (AMENDMENT)
 SECOND ORDINANCE, 1985**
BIHAR ORDINANCE NO. 18 OF 1985
 (Text omitted as this Ordinance, replaces Ordinance No. 9 of 1985 and
 16 of 1984, printed at p. 18, of Part VII, 1985) —*Editor*]

Published in *the Bihar Gazette (Extra.)*, dated May 18, 1985.
**THE BIHAR STATE UNIVERSITY (AMENDMENT) SECOND
 ORDINANCE, 1985.**
BIHAR ORDINANCE NO. 14 OF 1985

An Ordinance to amend the Bihar State University Act, 1976.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar State University Act, 1976 (Bihar Act XXIII of 1976) in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Bihar State University (Amendment) Second Ordinance, 1985.

(2) It shall come into force at once.

2. *Amendment of section 2 of Bihar Act XXIII of 1976.*—For clause (a, e) to section 2 of Bihar State University Act, 1976 (Bihar Act 23 of 1976) (hereinafter referred to as the said Act), the following shall be substituted :—

“(a,c) ‘The Bihar State University (Constituent Colleges) Service Commission’ means the Bihar State University (Constituent Colleges) Service Commission to be constituted by the State Government for making recommendations for appointments etc. of teachers and officers of Universities and Constituent Colleges.”

3. *Amendment of section 26 of the Bihar Act XXIII of 1976.*—For clause (i) and proviso to sub-section (5) of section 26 of the Act, the following shall be substituted namely :—

(i) The appointment of Dean of Faculty shall be made by the Vice-Chancellor from amongst the University Professor and the principals of the rank of University Professors for two years by rotation in the concerned faculty in the manner prescribed in the statutes :

Provided that where there is no teacher or Principal of the rank of University Professor in the Faculty, the Dean of Faculty shall be appointed by the Vice-Chancellor in rotation for a term of two years from amongst the Heads of Department and the Principals of the rank of Readers in the manner prescribed in the statutes :

Provided further that where there is no University Department in the Faculty, the Vice-Chancellor shall appoint a Principal of a College lower than the rank of a University Professor to be the Dean of Faculty by rotation for a term of two years in the manner prescribed in the statutes

4. *Amendment of section 35 of the Bihar Act XXIII of 1976.*—For sub-clause (i) of clause (b) of sub-section (1) of section 35 the following sub-clause shall be substituted :—

“(i) After the commencement of this Act no teaching or non-teaching post involving financial liabilities shall be created without the prior approval of the State Government.”

5. *Substitution of a new section for section 57 of Bihar Act XXIII of 1976* —For section 57 of the said Act, the following section shall be substituted :—

“57. *Appointment of teachers and officers.*—(1) Subject to the provisions of this Act and the statutes, the Bihar State University (Constituent Colleges) Service Commission shall, as far as may be, perform, in respect of appointment to the posts of teachers and Officers (other than Vice-Chancellor, Pro-Chancellor and the Dean of Faculty) of the University the same functions as are assigned to the State Public Service Commission in respect of the State Services under Article 320 of Constitution of India.

(2) The Bihar State University (Constituent Colleges) Service Commission shall, on the basis of an interview held for appointment of teachers and officers of different categories in all Universities and Constituent Colleges, prepare a panel. This panel will be prepared for the teachers subject wise and teacher and officers of different Universities and Colleges shall be appointed on the basis of the said panel.

(3) In making recommendation for appointment to every post of teacher and officer, the Bihar State University (Constituent Colleges) Service Commission shall fulfil the conditions contained in section 58 of the Act.

(4) The appointment of teachers of affiliated colleges shall be made on the recommendation of the Bihar College Service Commission.”

6. *Substitution of clause (c) of sub-section (2) of section 57-A of Bihar*

Act XXIII of 1976.—For clause (c) of sub-section (2) of section 57-A of said Act the following clause shall be substituted :—

“(c) For the purpose of absorbing the services of the teachers of affiliated colleges, who were appointed by the governing body of the college against the sanctioned posts before the establishment of the College Service Commission and whose services have been approved by the University Service Commission as also the services of such teachers who were appointed by the governing body on the recommendations of the University Service Commission (Dissolved)/College Service Commission, as the case may be, approval of the Bihar State University (Constituent Colleges) Service Commission shall be necessary, and such teachers shall be absorbed in the University Service from the date of making the college constituent. Their seniority shall be determined according to the rules prescribed in the statutes.”

7. *Amendment of section 58 of Bihar Act XXIII of 1976.*—In section 58 of the said Act—

(1) For the words “Bihar Public Service Commission” and “Commission” the words “Bihar State University (Constituent Colleges) Service Commission” shall be substituted

(2) In clause (a) of sub-section (2)—

(a) For sub-clause (i), the following clause shall be substituted

“(i) Seniors most teachers of the subject concerned not below the rank of University Professor.”

(b) After proviso to sub-clause (i), the following proviso shall be added :—

“Provided further that the expert shall be Principal of the rank of University Professor for the appointment of Principal of the rank of University Professor.”

(c) After sub-clause (ii), the following proviso shall be added :

“Provided that for the appointment of Principal of the rank of University Professor, one shall be a Vice-Chancellor of the outside University from amongst the said three Specialists/Experts.”

(3) In clause (b) of sub-section (2)—

(a) For sub-clause (i), the following shall be substituted, namely

“(i) Seniors most teacher of the subject concerned not below the rank of University Professor.”

(b) After proviso to sub-clause (i), the following proviso shall be added :—

“Provided further that the expert shall be a Principal of the rank of University Professor for the appointment of the Principal of the rank of Reader.”

(4) For clause (b) to sub-section (3) the following shall be substituted, namely :—

“If the Syndicate/Government Body does not accept the recommendation made by the Commission, it shall record its reasons in writing and forward the case for order to the Chancellor and the order of the Chancellor shall be final and binding.”

(5) After sub-section (8), the following sub-section shall be added

“(9)(a) Notwithstanding anything contained in the Act, purely temporary appointment on a post of Lecturer, duly sanctioned by the

Government may be made for a maximum period of six months or till the end of session (whichever is earlier) on the recommendations of the following Selection Committee constituted under the chairmanship of Vice-Chancellor :—

(1) Vice-Chancellor ... Chairman
(2) University Professor of the subject concerned ... Member
(the seniormost teacher of the rank of University Professor).

(3) An expert from the State of the rank of the ... Member
University Professor to be nominated by the Chancellor

(b) In no case the Professor appointed on temporary basis as aforesaid, shall either continue in service nor be re-appointed on the expiry of the said period of six months. Such appointment shall be made only once and for a maximum period of six months."

8. *Amendment of section 66 of the Bihar Act XXIII of 1976.*—In proviso to section 66 of the said Act, for the words "The Public Service Commission" the words "The Bihar State University (Constituent Colleges) Service Commission" shall be substituted.

9. *Repeal and saving.*—(1) The Bihar State University (Amendment) Ordinance, 1985 (Bihar Ordinance No. 4 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Ordinance, as if, this Ordinance were in force on the day on which such thing or action was done or taken.

Dated, 15th May, 1985.

P. VENKATA SUBBAIAH,
Governor of Bihar.

THE BIHAR INTERMEDIATE EDUCATION ORDINANCE, 1985

Published in the *Bihar Gazette*, (Extra.), dated June 6, 1985.

BIHAR ORDINANCE NO. 23 OF 1985

An Ordinance to provide, after the dissolution of Bihar Intermediate Education Council, for the conduct of the pending and the future Intermediate Standard Examinations and for proper conduct, Regulation and Control of Institutions Imparting Education of Intermediate Standard, and for Removal of ancillary matters arising thereto.

Preamble.—Whereas the Legislature of the State of Bihar is not in session.

And, whereas the Governor of Bihar is satisfied that, circumstances exist which render it necessary from him to take immediate action after the dissolution of Bihar Intermediate Education Council, for the conduct of the pending and the future Intermediate Standard Examinations and for proper conduct, regulations and control of Institutions imparting education of Intermediate standard and for removal of ancillary matters arising out of the dissolution of Bihar Intermediate Education Council.

Now, therefore, in exercise of the powers conferred by clause (i) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(i) This Ordinance may be called the Bihar Intermediate Education Ordinance, 1985.

(ii) It shall extend to the whole of the State of Bihar.

(iii) It shall be deemed to have come into force from May 20, 1985.

2. *Definitions.*—In this Ordinance unless the context otherwise requires,—

(a) 'Council' means Bihar Intermediate Education Council constituted under section 3 of Bihar Intermediate Education Council Ordinance, 1985 (Bihar Ordinance No. 8 of 1985);

(b) 'Fund' means Bihar Intermediate Education Council Fund constituted under section 29 of the said Bihar Intermediate Education Council Ordinance, 1985;

(c) 'Rules' means the rules framed under this Ordinance by the State Government;

(d) 'Intermediate Education' means the education imparted according to the Intermediate standards syllabi in the subjects and of the standard prescribed by the Government of Bihar from time to time;

(e) 'Notification' means notification published in the official Gazette;

(f) 'University' means university established under section 3 of the Patna University Act, 1976 (Bihar Act XXIV of 1976) and the Bihar State University Act, 1976 (Bihar Act XXIII of 1976).

3. *Carrying out the functions of the Council.*—(i) With effect from the date of commencement of this Ordinance the Education Secretary, Government of Bihar shall be deemed to have been authorised to conduct, direct, supervise and control education of intermediate standard and for carrying out all functions relating to the purposes and powers as provided in section 15 of Bihar Intermediate Education Council Ordinance, 1985 (Bihar Ordinance No. 8 of 1985).

(ii) From the date of commencement of this Ordinance all assets, properties and liabilities of the Council shall be deemed to have vested in the State Government.

4. *Disposal of pending intermediate examination works.*—(i) The State Government may by notification in the official Gazette authorise any one or more universities established in the State of Bihar to carry out the pending Intermediate examinations.

(ii) Notwithstanding anything contained in any Act or Ordinance, the State Government may by notification in the official Gazette authorise any one or more universities of the State to carry out the work of teaching, conduct of examination, evaluation, publication of results, grant of certificates and any other work relating to the Intermediate Education.

And may further authorise any one university or more universities to evaluate and inspect any of the institution engaged in imparting Intermediate Education.

5. *Power of the State Government to issue instruction.*—(i) The State Government may issue any instruction consistent with the provisions of this Ordinance which it considers necessary, for carrying out the purposes of Intermediate Education and this Ordinance.

(ii) The State Government may, by a notified order, stating the reason thereof, annul any resolution or order passed by the Council prior to its dissolution.

6. *Power to frame rules.*—The State Government may make rules for proper implementation of the provisions of this Ordinance.

7. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Ordinance or any controversy arises, the State Government may take appropriate decisions and issue orders.

8. *Savings.*—Anything done or any action taken in exercise of the powers conferred by or under Bihar Intermediate Education Council Ordinance, 1985 (Bihar Ordinance No. 8 of 1985) shall be deemed to have been done or taken in exercise of the powers conferred by or under this Ordinance as if this Ordinance was in force on the date on which such thing was done or action taken,

Dated 5th June, 1985.

P. VENKATA SUBBAIAH,
Governor of Bihar.

THE BIHAR COAL MINING AREA DEVELOPMENT AUTHORITY SECOND ORDINANCE, 1985

Published in the *Bihar Gazette (Extra.)*, dated May 20, 1985.

BIHAR ORDINANCE NO. 21 OF 1985

An Ordinance to provide for the growth and development of Coal Mining Areas in the State and for matters ancillary thereto.

Preamble.—Whereas the Legislature of the State of Bihar is not in session :

And whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action for planned growth and development of Coal Mining Areas and for matters incidental thereto :

And, whereas, the instructions of the President under the proviso to clause (1) of Article 213 of the Constitution of India have been obtained :

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Bihar Coal Mining Area Development Authority Second Ordinance, 1985.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force on such date and in such areas as the State Government may, by notification in the Official Gazette, appoint.

(Text omitted).

THE PATNA UNIVERSITY (AMENDMENT) SECOND ORDINANCE

Published in the *Bihar Gazette, (Ext.)*, dated May 18, 1985.

BIHAR ORDINANCE NO. 15 OF 1985

An Ordinance to amend the Patna University Act, 1976.

Preamble.—Whereas the Legislature of the State of Bihar is not in session.

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Patna University Act, 1976 (Bihar Act XXIV of 1976), in the manner

hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Bihar is pleased to promulgate the following Ordinance :—

1. *Short title and commencement*—(1) This Ordinance may be called the Patna University (Amendment) Second Ordinance, 1985.

(2) It shall come into force at once.

2. *Amendment of section 2 of Bihar Act XXIV of 1976*.—After clause (y) of section 2 of the Patna University Act, 1976 (Bihar Act XXIV of 1976) (hereinafter referred to as the said Act), the following clause shall be added namely :—

“(z) ‘Bihar State University (Constituent Colleges) Service Commission’ means Bihar State University (Constituent Colleges) Service Commission to be constituted by the State Government for making recommendations for appointments, etc. of teachers and officers of Universities and Constituent Colleges.

3. *Amendment of Section 19 of Bihar Act XXIV of 1976*.—For clause (17) of section 19 of the said Act the following shall be substituted :—

“(17) One employee to be elected by the employees of the University and Colleges from amongst the employees of the University and Colleges in the manner prescribed in the statutes.”

4. *Amendment of section 27 of Bihar Act XXIV of 1976*.—For clause (a) of sub-section (5) of section 27 and proviso thereof, the following clause and proviso shall be substituted :—

“(a) The Dean of Faculties shall be appointed in the faculty by the Vice-Chancellor by rotation for a term of two years from amongst the University Professors and Principals of the rank of University Professors in the manner provided by the statutes :

Provided that in the Faculty where there is no teacher or Principal of the rank of University Professors the Dean of Faculties shall be appointed by the Vice-Chancellor in rotation for a term of two years from amongst the Readers of the rank of the Heads of Department and Principals, in the manner prescribed by the statutes :

Provided further that where there is no University Department in the Faculty, the Vice-Chancellor shall appoint a Principal of a college of a rank lower than the University Professor to be the Dean of Faculty by rotation for a term of two years in the manner prescribed in the statutes.”

5. *Substitution of a new section for section 56 of Bihar Act XXIV of 1976*.—(1) For section 56 of the said Act the following new section shall be substituted, namely :—

56. *Appointment of teachers and officers*.—(1) Subject to the provisions of this Act and the statutes, the Bihar State University (Constituent Colleges) Service Commission shall, as far as may be, perform in respect of appointment to the posts of teachers and officers (other than the Vice-Chancellor, Pro-Vice-Chancellor and the Dean of Faculty) the same functions as are assigned to the State Public Service Commission in respect of the State Services under Article 320 of the Constitution of India.

(2) The Bihar State University (Constituent Colleges) Service Commission shall, on the basis of an interview held for appointment of teachers and officers of different categories in all Universities and Constituent

Colleges, prepare a panel, and teachers and officers of different Universities and Colleges shall be appointed on the basis of the said panel.

(3) In making recommendations for appointment to every post of teacher and officer, the Bihar State University (Constituent Colleges) Commission shall fulfil the conditions contained in section 57 of the Act."

6. *Amendment of section 57 of Bihar Act XXIV of 1976.*—In section 57 of the said Act,—

(1) For the words "Bihar Public Service Commission" and "Commission" the words "Bihar State University (Constituent Colleges) Service Commission" shall be substituted.

(2) In clause (a) of sub-section (2)—

(a) For sub-clause (i) the following shall be substituted :—

"(i) Seniormost teacher of the subject concerned not below the rank of University Professors."

(b) After proviso to sub-clause (i), the following proviso shall be added :—

"Provided further that for appointment of Principal of the rank of University Professor, the expert shall be a Principal of the rank of University Professor."

(c) After sub-clause (ii) the following proviso shall be added :—

"Provided that for the appointment of Principal of the rank of University Professor, one shall be a Vice-Chancellor of any other University amongst the said three specialists/experts."

(3) In clause (b) of sub-section (2),—

(a) For sub-clause (i) the following shall be substituted, namely :—

"(i) Seniormost teacher of the subject concerned not below the rank of University Professor."

(b) After proviso to sub-clause (i), the following proviso shall be added :—

"Provided further that the Expert for the appointment of the Principal of the rank of University Professors."

(4) For clause (b) to sub-section (3) the following shall be substituted, namely,—

"If the Syndicate does not accept the recommendation made by the Commission, it shall record its reasons in writing and forward the case for order to the Chancellor and the order of the Chancellor shall be final and binding."

(5) After sub-section (8), the following sub-section shall be inserted :—

"(9). (a) Notwithstanding anything contained in the Act, a purely temporary appointment on a post of Lecturer only sanctioned by the State Government may be made for a maximum period of six months or till the end of the session (whichever is earlier) by the following Selection Committee constituted under the chairmanship of the Vice-Chancellor.

For this purpose the Selection Committee shall be constituted as follows :—

(1) Vice-Chancellor Chairman.

(2) University Professor of the subject concerned ... Member.
(the seniormost teacher of the rank of University Professor/Head of Department).

(3) An expert from the State of the rank of University Member.

Professor to be nominated by the Chancellor.

(b) In any case, the Lecturer appointed on temporary basis as aforesaid, shall neither continue in service nor be re-appointed on the expiry of the said period of six months. Such appointment shall be made only once and for a maximum period of six months."

7. *Amendment of section 63 of Bihar Act XXIV of 1976.*—In proviso to sub-section (2) of section 63 of the said Act, for the words "The Public Service Commission" the words "The Bihar State University (Constituent Colleges) Service Commission" shall be substituted.

8. *Repeal and saving.*—(1) The Patna University (Amendment) Ordinance, 1985 (Bihar Ordinance No. 5 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Ordinance, as if this Ordinance in force on the day on which such thing or action was done or taken.

P. VENKATA SUBBAIAH,
Governor of Bihar.

Dated 15th May, 1985.

**THE BIHAR STATE UNIVERSITY (CONSTITUENT COLLEGES)
SERVICE COMMISSION SECOND ORDINANCE, 1985.**

Published in the *Bihar Gazette, Extra*, dated May 18, 1985

BIHAR ORDINANCE NO. 16 OF 1985

An Ordinance to establish University Service Commission for the Recruitment of the Officers and Teachers of the Universities and constituent Colleges of the State.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to establish University (Constituent Colleges) Service Commission for recruitment of the officers and teachers in the universities and constituent colleges of the State ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(i) This Ordinance may be called the Bihar State University (Constituent Colleges) Service Commission Second Ordinance, 1985.

(ii) It shall extend to whole of the State of Bihar.

(iii) It shall come into force at once.

2. *Constitution of the Commission.*—(a) The State Government shall, by a notification published in the official Gazette, set up the Bihar State University (Constituent Colleges) Service Commission (hereinafter referred to as the "Commission").

(b) The Commission will be a body corporate, having its head office in Patna, which will have perpetual heritance and there will be a common seal and will sue or will be sued in the said name.

(c) The Commission will make recommendation for the appointment of officers and teachers of the Universities and its constituent colleges.

3. *Appointment of Chairman and members of the Commission.*—(a) The Commission will have a Chairman and a maximum of six members and they shall be whole time officers.

(b) The Chairman and the Members of the Commission shall be appointed by the Governor and they shall hold office for a period of three years.

(c) The Governor of the State shall have the power to reappoint the Chairman or any member on the expiry of his term, but in no case the tenure of the appointed or re-appointed Chairman or Member will continue after he attains the age of 62 years.

4. *Resignation or removal of Chairman or member of the Commission :—*

(1) The Chairman/Members of the Commission may, by writing under his hand addressed to the Governor, resign his office. The Chairman/Member of the Commission may be removed from the office by the order of the Governor if he.—

(a) is adjudged an insolvent ;

(b) engages himself during his term of office in any paid employment outside the duties of his office ; or

(c) is in the opinion of the Governor, unfit to continue in office; or

(2) The Chairman or any other member of the Commission may be removed from his office by the order of the Governor on the ground of misbehaviour after an enquiry is held in the manner prescribed by the Governor in the Rules to be framed under Section 13.

5. *Recommendation of the Commission for appointment.*—(a) In the process of making recommendations for appointment to each post of officer/teacher of a University or of a Constituent College the Commission will have the assistance of experts as laid down under section 58 of the Bihar State Universities Act, 1976 (Bihar Act 23 of 1976) of section 57 of the Patna University Act, 1976 (Bihar Act 24 of 1976) as the case may be

(b) In the process of making recommendations the provisions made in the statutes of the Universities concerned relating to qualifications and method of selection shall be taken into consideration.

6. *Qualification of Chairman and members.*—(a) A person to be appointed to the post of Chairman should have a minimum of five years experience as a University professor.

(b) No one will be considered fit to be a Member unless he is of the rank of University Professor.

7. *Determination of pay and allowances by the State Government.*—The State Government will determine the terms and conditions of service including the pay and allowance, etc. for the Chairman, Members, Secretary and staff according to the prescribed Rules.

8. *Secretary* —There will be a Secretary of the Commission, who will be a full time officer and whose appointment will be made by the State Government from the officers of the rank of Additional Director of Education or of equivalent rank. He will work under the administrative control of the Commission.

9. *Panel.*—(a) The Commission will draw a panel, in order of preference, for appointment to each grade. Such panel will be prepared for each University separately. The Commission will recommend to the Universities concerned the number of candidates requisitioned against the available vacancies.

(b) *Validity of the panel.*—The Syndicate, within one year of the date of recommendation, will make appointment from the panel in order of preference.

10. *Duty of the universities to consult the commission in certain matters.*—It shall be the duty of the Universities to consult the Commission in respect of—(a) all disciplinary matters affecting the officers, lecturers, readers and professors of the University in respect of major punishments, such as dismissal, removal or reduction in rank.

(b) the principles, to be followed in making promotion, as also, the suitability of the candidates for such promotion.

11. *Recommendation of the Commission where not needed.*—Notwithstanding anything contained in the Patna University Act, 1976 and the Bihar State University Act, 1976, the appointment of a lecturer, if it is essential in the interest of the College or the University may be made by the Vice-Chancellor of the University concerned as against sanctioned posts for six months only for which no recommendations of the Commission will be needed.

12. *Annual Report.*—It will be the duty of the Commission to submit an annual report to the Chancellor with copies to the Universities in connection with the action taken in respect of teacher/officers and the University concerned will place it before the Syndicate at its next meeting. The University, in such cases, in which Commission's recommendations have not been accepted, will forward reasons for non-acceptance to the Chancellor, who will forward the same to the State Government for being placed before the Legislature.

13. *Power to make Rules.*—The State Government may, by notification published in the official Gazette make Rules consistent with the provisions of this Ordinance.

14. *Repeal and Savings.*—(1) The Bihar State University (Constituent Colleges) Service Commission Ordinance, 1985 (Bihar Ordinance no. 3, 1985) is hereby repealed.

(2) Notwithstanding such repeal any thing done or any action taken in exercise of any power conferred by or under the said Ordinance or notwithstanding anything continued in this Ordinance any thing done or any action taken in exercise of any power conferred by or under the Bihar State University Act, 1976 and the Patna University Act, 1976, shall be deemed to have been done or taken in exercise of powers conferred by or under this Ordinance as if, this Ordinance were in force on the day on which such thing was done or action taken.

Date 15th May 1985

P. VENKATASUBBAIAH.
Governor of Bihar.

Published in the *Bihar Gazette*, (Ext.), dated on May 26, 1985.
THE BIHAR MOLASSES (CONTROL) SECOND (AMENDMENT) ORDINANCE, 1985

BIHAR ORDINANCE NO. 22 OF 1985

An Ordinance to amend the Bihar Molasses (Control) Act, 1947.

Whereas the Legislature of the State of Bihar is not in session ;

And whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend

the Bihar Molasses (Control) Act, 1947 (Bihar Act 6 of 1947) in the manner hereinafter appearing ;

And whereas, the instruction of the President of India under the proviso to clause (1) of Article 213 of the Constitution of India have been obtained ;

Now therefore, in exercise of the powers conferred by clause (1) of Article 213 of the constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(i) This Ordinance may be called the Bihar Molasses (Control) Second (Amendment) Ordinance, 1985:

(ii) It shall come into force at once.

(Text omitted as it repeals Ordinance No. 2 of 1985)

THE BIHAR FINANCE ACT, 1985

Published in the *Bihar Gazette (Ext.)*, dated August 7, 1985

BIHAR ACT 4 OF 1985

An Act to raise additional fund for the execution of public welfare schemes and with a view to implement the financial proposals of the State Government for the financial year 1985-86, as also to amend the Bihar Finance Act, 1981 (Bihar Act 5 1981) the Bihar Entertainment Tax Act 1948 (Bihar Act 35 of 1948) the Bihar Electricity Duty Act 1948 (Bihar Act 36, of 1948) and Cess Act, 1880 (Bengal Act 9, of 1880).

Be it enacted by the Legislature of the State of Bihar in the Thirty-sixth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Bihar Finance Act, 1985 ;

(2) It shall extend to the whole of the State of Bihar ;

(3) It shall come into force on the 1st day of August, 1985 except the provision of section 12, section 3-A of the Bihar Entertainment Tax Act 1948 (Bihar Act 3 of 1948) as inserted by section 13 and section 14, which shall be deemed to have come into force with effect from the 12th day of March, 1985.

CHAPTER II

AMENDMENT OF THE BIHAR FINANCE ACT, 1981

(BIHAR ACT 5 OF 1981)

2. *Amendment of sub-section (1) of section 6 of Bihar Act 5 of 1981.*—In the Bihar Finance Act, 1981 ; (Bihar Act 5 of 1981) (hereinafter in this Chapter to be referred to as the said Act) in sub-section (1) of section 6, after the figure “12” a comma and the figure “13” shall be inserted and shall be deemed always to have been inserted.

3. *Amendment of section 9 of Bihar Act 5, of 1981.*—In sub-section (2) of section 9 of the said Act after the words “within such area” the words “or in respect of such transaction falling within an area” shall be inserted and shall be deemed always to have been inserted.

4. *Amendment of sub-section (4) of section 11 of the Bihar Act 5, 1981.*—In sub-section (4) of section 11 of the said Act, the words “or for use by him in the packing of goods which he sells” shall be omitted.

5. *Amendment of section 13 of Bihar Act 5 of 1981.*—In section 13 of

the said Act,—

(1) In sub-clause (i) of clause (b) of sub-section (1) the words “in Bihar or in course of inter-state trade or commerce” shall be deleted.

(2) After clause (d) to sub-section (1) the following new clause shall be inserted, namely :—

“(e) Sales to or purchases by a registered dealer of goods specified in his registration certificate issued under section 14 as required by him in the or for packing of goods which he sells”.

(3) In the subordinate sentence before the proviso to sub-section (1) after the words “at such rate” the words “or rates” shall be inserted.

(4) Sub-section (2) shall be renumbered as “(2)(i)” and the following new clause shall be inserted, namely :—

“(ii) In case of sales under clause (e) of sub-section (1) a declaration in the prescribed form duly filled up and signed by the purchaser shall be furnished by the selling dealer to the prescribed authority in the prescribed manner.”

(5) In sub-section (3) for the words, brackets and letters “clauses (a), (b), (c) and (d)” the words, brackets and letters “(a), (b), (c), (d) and (e)” shall be substituted.

6. *Amendment of sub-section (9) of section 16 of Bihar Act 5 of 1981.*—In the said Act in sub-section (9) of section 16,—

(i) after the word “five per centum” the word “but not less than two and half per centum” shall be inserted ;

(ii) after the words “three months” the words “or part thereof” shall be inserted ;

(iii) after the words “ten per centum” the words “but not less than five per centum” shall be inserted.

7. *Amendment of sub-section (1) of section 20 of the Bihar Act 5 of 1981.*—In the said Act in sub-section (1) of section 20 after the words “any proceeding” the words “or otherwise” shall be inserted.

8. *Amendment of section 21 of Bihar Act 5 of 1981.*—In the said Act, in sub-section (1) of section 21,—

(i) Clause “(a)” shall be renumbered as clause “(a)(ii)” and before this a new sub-clause shall be inserted as follows namely :—

“(a)(i) In case of works contract the amount of labour charges in the manner or to the extent prescribed ;”

(ii) In clause (c), after the words “trade or commerce” the comma “(,)” shall be substituted by a semi-colon “(;)” and the words “or for use in packing of goods which he sells inside Bihar or in course of inter-State trade or commerce” shall be deleted.

9. *Substitution of sub-section (5) of section 25-A of Bihar Act 5, 1981.*—In the said Act, sub-section (5) of section 25-A shall be substituted as follows, namely :—

“(5) If any person contravenes any or all of the provisions of sub-section (1), (3) and (4), the prescribed authority shall, after giving an opportunity of being heard, by an order in writing, direct that such person shall pay by way of penalty, a sum not exceeding twice the amount of tax deductible under sub-section (1)”.

10. *Amendment of section 60-A of Bihar Act of 5 of 1981.*—In the said Act, after sub-section (3) of section 60-A the following new sub-section shall be added, namely :—

“(4) *For the purposes of the Bihar Finance Act of 1981.*—(i) The additional tax levied, collected, and paid or purporting to have been levied, collected and paid under section 6 of the Bihar Finance Act, 1981 (Part I) on the sales or purchases under section 13, between the periods beginning from the 1st November 1981 and the date of coming into effect of this Act shall be deemed always to have been validly levied, collected and paid in accordance with the aforesaid Act ;

(ii) no suit or other proceeding shall be maintained or continued in any court or before any Tribunal or authority for the refund of such tax already collected nor enforcement shall be made by any court, tribunal or authority of any decree or order directing the refund of any such tax which has been collected.

(iii) notwithstanding anything contained in clause (i), no additional tax under section 6 shall be imposed where such tax has not been collected on sales or purchase under section 13 :

Provided that the burden of proving that the aforesaid tax was not collected shall be on the person claiming the exemption under this clause.

“(5) Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or any other authority, the transaction of assessment made at Calcutta office by the authorities appointed under section 9 of the said Act or under any other enactment before the said Act came into force, shall be deemed to have been validly done.”

11. *Amendment of section 63 of Bihar Act 5 of 1981.*—In the said Act in section 63, clause (a) of the proviso shall be substituted as follows and shall be deemed always to have been substituted :—

“(a) is exhibited within the show-window or show-case of a shop or building excluding an advertisement exhibited at any place of entertainment by means of a Cinematograph through slides, trailers of film or films ; or.”

CHAPTER III

AMENDMENT OF THE BIHAR ENTERTAINMENT TAX ACT, 1948 (BIHAR ACT 35 OF 1948).

12. *Substitution of clause (e) to section 2 of Bihar Act 35 of 1948.*—In the Bihar Entertainment Tax Act, 1948 (Bihar Act 35 of 1948) (hereinafter in this Chapter to be referred to as the said Act) in section 2 for clause (e) the following shall be substituted, namely :—

“(e) “Entertainment Tax” includes tax levied under sections 3, 3A, 3B and 3C.”

13. *Insertion of new sections 3A, 3B, 3C, 3D, 3E, and 3F in Bihar Act 35 of 1948.*—After section 3 of the said Act, the following new sections shall be inserted, namely :—

“3A. *Consolidated payment of tax.*—Notwithstanding anything contained in the Act, the State Government by notification, may levy consolidated amount of tax not exceeding 45 per cent and not below 10 per cent of the gross collection capacity for every show and such amount of tax

shall be paid by the proprietor of an entertainment to the State Government :

Provided that the State Government shall for the purpose of levy of consolidated amount of tax, classify places in categories for the fixation of such percentage and the rate of consolidated tax shall be uniform for a particular class of places. The State Government shall for the purpose of classification, take into account the type of place, its location, population, industrial growth and type of market.

Provided further that the consolidated tax payable under this section shall not be less than the highest amount of the tax for every show payable by the proprietor of an entertainment during any of the three preceding years under sub-section (1) or (5) of section 3 or under this section.

Explanation —“Gross collection capacity” shall mean the total amount calculated for total seating capacity of the theatre which shall include the admission fees, tax calculated on the basis of rate notified under sub-section (1) of section 3 from time to time, surcharge or charge for any privilege, right, facility, service or thing combined with the right of admission to any entertainment.

- 3-B. *Compounding of tax.*—(1) The State Government may, in lieu of tax payable under section 3-A on application of a proprietor, in the form prescribed under sub-section (2) of section 3-F, on such conditions, as may be prescribed, permit him to pay a fixed amount or a fixed percentage of gross collection capacity for a specified number of shows in a specified period irrespective of actual number of shows which may be held in that period :

Provided that the fixed amount or the fixed percentage of gross collection capacity shall not be less than the highest amount payable by the proprietor of an entertainment during any of the three preceding years of the concerned period under sub-section (1) or (5) of section 3 or section 3A or under this section.

(2) A proprietor intending to pay tax under sub-section (1) shall apply in the prescribed form to the Commissioner or any other officer, specially authorised by the Commissioner through the Deputy/Assistant Commissioner/Commercial Taxes Officer, I/C of the Circle/Sub-circle not less than 15 days before the commencement of the period for which the proprietor intends to pay tax under sub-section (1).

(3) On receipt of application, the Commissioner or any other officer specially authorised by the Commissioner, shall, after making such enquiry as he may deem necessary, permit the proprietor in the form prescribed under sub-section (3) of section 3-F to pay fixed sum in accordance with sub-section (1).

(4) The option permitted under sub-section (3) shall continue to be in force till the end of the financial year in which such option is permitted.

(5) The amount of tax specified in the permission granted under sub-section (3) shall be paid to the State Government in the prescribed manner in advance weekly before the week begins.

3C. *Tax on Commercial Video Exhibition.*—Notwithstanding anything contained in the Act, in the case of commercial exhibition of films on Video specified in column 2 of the Table below irrespective of whether the show is combined with any service or transport or supply of any goods for which

a lump sum is charged from a person, there shall be levied and paid by the proprietor of such entertainment to the State Government, a tax at such rates not exceeding the rates specified in the corresponding entry in column 3 thereof, as the State Government may fix by a notification issued in this behalf :—

TABLE

1	2	3
		Rs. per week
1. Video of up to 65 cm. screen	..	2,000
2. Video of above 65 cm. up to 100 (cm. screen,	..	2,500
3. Video of above 100 cm. screen	..	3,500

3-D. Application of certain provisions.—Where tax is levied under sections 3A and 3C, except expressly otherwise provided, the provisions of sub-sections (1) and (2) of section 3, and clause (ii) of section 5-A of the Act and where a proprietor is permitted to pay a fixed sum under sub-section (3) of section 3B, so long as a proprietor complies with all the terms and conditions specified in the permission, the provisions of sub-sections (1), (2), (5) and (6) of section 3, clauses (b) and (c) of sub-section (1) and sub-section (2) and (3) of section 5, clauses (ii) and (iii) of section 5A and section 9B shall not apply :

Provided that no person other than a person who has some duty to perform in connection with the entertainment or a duty imposed upon him by or under this Act or any other law shall be admitted without a ticket. The ticket shall contain the name of the theatre, class to which it is valid and the rate of admission and such ticket shall be serially numbered from 000001 to 100000 and repeated in like rotation.

3-E. Exemption of tax in certain cases.—No tax shall be levied under sub-section (1) of section 3, section 3-A and section 3-B of the Act in respect of entertainments or films exempted under sub-section (2) of section 10 of the Act, if a proprietor sells tickets not above the rate of admission fee (excluding the amount of entertainment tax) approved by the State Government and in such case, a proprietor shall pay to the State Government only the tax levied under sub-section (2) of section 3 of the Act.

3-F. Forms for weekly return and application for permission and permission to pay compounded tax.—(1) Every proprietor of an entertainment liable to pay tax under section 3-A or opting to pay tax under section 3B shall furnish to the Deputy/Assistant Commissioner/Commercial Taxes Officer of the Circle/Sub-circle I/C, a duly signed weekly return in Form A of the Schedule before or latest by Wednesday following the week to which the return relates:

(2) The application for permission to pay tax under section 3-B shall be in Form 'B' of the Schedule.

(3) The permission to pay tax under section 3-B shall be in Form 'C' of the Schedule.

14 Amendment of section 4 of Bihar Act 35 of 1948.—In the said Act in section 4 the following proviso shall be added, namely :—

“Provided that where tax is levied on any entertainment under Section 3A or 3B, the proprietor shall not be entitled to collect any amount

exceeding the tax calculated at the rate notified under sub-section (1) of Section 3 as tax from the person admitted to the entertainment."

15. *Amendment of Section 9 of Bihar Act 35 of 1948.*—In Section 9 of the said Act :—

(i) for sub-section (5) the following shall be substituted :—

"(5) Where the proprietor fails to make payment of the amount of consolidated or compounded tax under sub-section (5) of section 3 or section 3-C or fails to make payment of the entertainment tax due according to the return furnished under sub-section (1) of this Section, within the prescribed period, without prejudice to any action which is or may be taken under clause (b) of sub-section (1) of Section 16, the prescribed authority shall after giving such proprietor an opportunity of being heard, impose a penalty which may extend to three per centum of the amount of tax for each of the first three months following the due date, and to six per centum for each subsequent month or part thereof" and

(ii) The proviso to sub-section (8) shall be omitted.

16. *Amendment of section 9-B of Bihar Act 35 of 1948.*—The proviso to section 9-B of the said Act shall be omitted.

17. *Amendment of section 13-D of Bihar Act 35 of 1948.*—In the said Act in section 13-D the words, bracket and figure "under sub-section (1) of" shall be deleted.

18. *Amendment of section 19 of Bihar Act 35 of 1948.*—Section 19 of the said Act shall be deleted.

19. *Insertion of a new section 21-A in the Bihar Act 35 of 1948.*—In the said Act, after section 21, a new section shall be inserted as follows, namely :—

"21-A *Validation and exemption*—

(1) The Bihar Entertainment Tax (Amendment) Ordinance, 1976 (Bihar Ordinance 21 of 1976), Bihar Entertainment Tax (Second Amendment) Ordinance, 1976 (Bihar Ordinance 103 of 1976), Bihar Entertainment Tax (Third Amendment) Ordinance, 1976 (Bihar Ordinance 152 of 1976), The Bihar Entertainment Tax (Amendment) Act 1976 (Bihar Act 3 of 1977), The Bihar Entertainment Tax (Amendment) Ordinance, 1985 (Bihar Ordinance 9 of 1985) and, The Bihar Entertainment Tax (Amendment) Second Ordinance, 1985 (Bihar Ordinance, 18 of 1985) shall be deemed to have come into force from the dates of their respective promulgation and enactment and the rate of entertainment Tax fixed by notification, S. O. 1540, dated the 1st December, 1975 issued under sub-section (1) of section 3 of Bihar Act 35 of 1948 shall, unless modified, superseded or cancelled, be deemed to have continued.

(2) Notwithstanding any judgment, decree or order of any Court, Tribunal or Authority—(a) any amount levied, paid, collected or recovered or purported to have been levied, paid, collected or recovered as tax or penalty under the provisions of the aforesaid Ordinances and the Act and Rules made and notification issued thereunder, for the period beginning from the 17th January, 1976 shall be deemed to have been validly levied, paid collected, or recovered ;

(b) any proceeding commenced or conducted or purported to have been commenced or conducted for the assessment, collection or recovery of any amount as tax or penalty under the provision of the said Ordinances

and the Act, and Rules made and notifications issued thereunder for the period specified in clause (a) shall be deemed to have been commenced or conducted or purported to have been commenced or conducted in accordance with the provisions of this Act.

20 Amendment of section 22 of Bihar Act 35 of 1948.—In the said Act—

(i) the provisions of section 22, shall be renumbered as sub-section (1) of section 22, and

(ii) after the renumbered sub-section (1) the following new sub-section shall be added; namely—

“(2) The Bihar Entertainment Tax (Amendment) Second Ordinance 1985 (Bihar Ordinance, 18 of 1985) is hereby repealed.

(3) All rules, scheme, orders and appointment made, notifications, certificates, forms issued or actions taken and things done or purported to have been made, issued, taken or done for achievement of objects under the Ordinances and the Act mentioned in section 21-A shall be deemed to have been made, issued taken or done under this Act as if, this Act were in force on the relevant dates.

SCHEDULE

(Please see section 3-F)

FORM A

Weekly return under section 3-A/3-B of the Bihar Entertainment Tax Act, 1948 to be furnished by proprietor.
To

The Deputy/Assistant Commissioner/Commercial Taxes,
Officer I/C... Circle/Sub-Circle.

I ... The proprietor of.....

..... situated at

in the district of..... furnish herewith the following particulars for the week ending :—

- (i) Registration no.
- (ii) Category u/s 3-A/3-B.
- (iii) Class of theatre—70 mm.
35 mm.
Air-conditioned
Air-cooled
Ordinary (delete which is not applicable)
- (iv) Period of return
- (v) Seating capacity of the theatre

Serial no.	Class	Rate of admission	seats No. of	Collection Gross
1	2	3	4	5

Total collection capacity.....

Tax @ on Gross collection capacity

(vi) No. of shows held during the week :—

Name of picture screened on No. shows of each picture.

(a) of taxable Films

(b) Tax-free Films

Rs. Tax u/s 3(2) Rs.....
 (viii) Amount of entertainment tax paid.
 (ix) Challan no. and date.....
 I, ... declare that to the best of my knowledge and belief,
 the information furnished above are true and correct.

Signature,
 Status and relation with the

Place
 Date

.....Proprietor.

FORM B

Application for permission to pay tax under sub-section (1) of section
 3-B of the Bihar Entertainment Tax Act, 1938

I, ... the proprietor of..... situated at.....
 in the district of whose particulars are given below hereby signi-
 fy my attention to opt for the payment of fixed amount of tax payable un-
 der sub-section (1) of section 3-B in respect of the shows to be held in the
 said theatre. I hereby apply for permission to pay tax under the above
 mentioned section and agree to abide by the rules and conditions prescrib-
 ed :—

1. Name and address of the theatre in respect of which application
 is made.
2. Registration number and date.
3. Number and date of licence granted under the Bihar Cinema
 (Regulation) Rules.
4. Date from which applicant opts to pay tax under section 3-B.
5. (a) Name of the proprietor.
 (b) Name of the partners, if any.
6. (a) Categories of theatre assigned in section 3-A.
 (b) Class of theatre 70 mm./35 mm./16 mm./A.C./Air cooled/
 ordinary (delete which is not applicable)-

7 Name of classes	Rate of admission	Number of seats	Gross collection
1	2	3	4

Total :

8. Tax payable every week under sub-section (1) of section 3-B with
 reference to gross collection capacity worked out in column 7 above.....

I, ... declare that to the best of my knowledge and belief
 the information furnished above are true and complete.

Signature of the applicant

Place

Status and relation with the
 proprietor.....

Date

(To be filled in by the Incharge of the Circle/sub-circle)

I, ... Deputy/Assistant Commissioner/Commercial Taxes Officer, Incharge, Circle/Sub-circle at certify that the information furnished above by the proprietor are true to the best of my knowledge and belief,

Signature,

Place

Date

Official seal.

Designation

FORM C

Permission to pay entertainment tax under section 3-B of the Bihar Entertainment Tax Act, 1948.

Whereas shri..... Proprietor of 70 mm/35 mm./16 mm./ Air conditioned/Air cooled/ordinary theatre known as situated at in the district of has applied for compounding of tax under sub-section (1) of section 3-B, I hereby permit the said proprietor to pay Rs..... (in words) per week commencing from subject to the following conditions:—

1. The amount of tax payable has been determined on the following information furnished by the proprietor in the application and certified by the of Circle/sub-circle:—

Name of classes.	Number of seats.	Rates of admission.	Cross collection
---------------------	---------------------	------------------------	---------------------

2. The amount of tax shall be deposited by the proprietor in advance for every week before the week begins and default in and payment shall invalidate this permission and in such case it shall be deemed that no permission has been granted.

3. This permission shall be valid from to

4. This permission may be revoked, suspended or cancelled at any time and no compensation shall be payable by the Government on account of any loss caused to the proprietor by reason of such revocation, suspension or cancellation.

5. The proprietor shall abide by the provisions of the Bihar Entertainment Tax Act, 1948 and the rules framed thereunder in so far as they are applicable to him.

6. A correct and complete statement shall be maintained by the proprietor in duplicate in respect of the number of tickets of each class issued and sold for each show and the amount received for such tickets issued and sold by using double side carbon paper so as to make impressions on reverse side on the statement also. The entries in the statement shall be written up and the accounts closed within 60 minutes or interval of the show whichever falls earlier and shall be produced before the Inspecting Officer at the time of inspection.

7. The proprietor shall not make any alteration in the seats and rate of admission without prior written permission of the Commissioner.

8. The proprietor shall not admit any person in excess of seats and shall not realise any amount from any person in excess of the rates specified in (1) above, the contravention of which shall make the proprietor from

the commencement of the permission liable to pay tax applicable to the gross collection capacity on the basis of excess persons and realisation of excess amount of admission fee. The proprietor shall also be liable to penalty under section 13-A and 13-C.

1. The proprietor shall furnish to the Deputy/Assistant Commissioner/Commercial Taxes Officer of the Circle/Sub-circle a duly signed return prescribed in sub-section (1) of section 3-F.

Place

Date

Seal

Signature

Designation

CHAPTER IV

AMENDMENT OF THE BIHAR ELECTRICITY DUTY ACT, 1948 (BIHAR ACT XXXVI OF 1948)

21. *Insertion of a new section 3A in Bihar Act XXXVI of 1948*—In the Bihar Electricity Duty Act, 1948 (Bihar Act, XXXVI of 1948) after section 3, the following new section shall be inserted; namely—

“3A. *Surcharge*—(1) subject to the provision of clauses (a), (b) and (c) of sub section (2) of section 3, every licensee shall pay, in addition to the duty payable under sub-section (1) of section 3, surcharge at the rate of two paise per unit of energy consumed or sold;

(2) Notwithstanding anything to the contrary contained in this Act no licensee, who is liable to pay surcharge, shall be entitled to collect the amount of this surcharge as such from the consumer;

(3) All provisions of this Act and the Rules framed thereunder relating to the payment, assessment, recovery and refund of the duty shall also apply to the payment, assessment, recovery and refund of the surcharge.”

CHAPTER V

AMENDMENT IN CESS ACT, 1880 (BENGAL ACT 2, 1880)

22. *Amendment in section 6 of Bengal Act, 9, 1880*—In section 6 of the Cess Act, 1880 (Bengal Act 9, 1880) hereinafter in this chapter referred to as the said Act).—

(i) in clause (a) for the word “twice” the words “five times” shall be substituted;

(ii) (a) in clause (aa), for the figure and word “20 percent” the figure and word “30 per. cent” shall be substituted.

(b) In clause (aa), for the word “twice” the words “five times” shall be substituted.

23. *Insertion of new section in Bengal Act 9 of 1880*.—In the said Act after section 6 the following new section shall be inserted; namely:—

“6A. The provision of section 6 shall extend to the whole of Bihar including the areas falling within the jurisdiction of all Municipalities, Corporation Notified area Committees and the cantonment Boards.”

24. *Repeal and saving*.—(1) The Bihar Cess (Amendment) Ordinance, 1985 (Bihar Ordinance no. 24 of 1985) is hereby repealed;

(2) Notwithstanding such repeal anything done or any action taken in exercise of the powers by or under the said Ordinance, shall be deemed

to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing or action was done or taken.

Published in the *Bihar Gazette (Ext.)*, dated August 8, 1985
THE BIHAR INTERMEDIATE EDUCATION SECOND ORDINANCE, 1985.

BIHAR ORDINANCE NO. 28 OF 1985

[Text is omitted as this Ordinance places Ordinance No. 23 of 1985 printed at page 42 of Part VII of 1985—Editor.]

Published in the *Bihar Gazette (Ext.)*, dated August 8, 1985
THE BIHAR STATE UNIVERSITY (AMENDMENT) THIRD ORDINANCE, 1985

BIHAR ORDINANCE NO. 31 OF 1985

[Text of the Ordinance is omitted as it replaces Ordinance No. 14 of 1985, printed at page 39 of Part VII of 1985—Editor]

Published in the *Bihar Gazette (Ext.)*, dated August 8, 1984
THE PATNA UNIVERSITY (AMENDMENT) THIRD ORDINANCE, 1985

BIHAR ORDINANCE NO. 29, OF 1985

[Text of the ordinance omitted as it replaces ordinance No. 15 of 1985 printed at page 44 of Part VII of 1985—Editor].

Published in the *Bihar Gazette. (Ext.)*, dated 7th August, 1985.
THE BIHAR CONTINGENCY FUND (AMENDMENT) THIRD ORDINANCE, 1985.

BIHAR ORDINANCE NO. 26, OF 1985.

An Ordinance to amend the Bihar Contingency Fund Act, 1950.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Contingency Fund Act, 1950 (Bihar Act of 1950), in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1 *Short title and commencement* —(1) This Ordinance may be called the Bihar Contingency Fund (Amendment) Third Ordinance, 1985.

(2) It shall come into force at once.

2. *Amendment of section 4 of Bihar Act 19 of 1950.*—For the proviso to section 4 of the Bihar Contingency Fund Act, 1950 (Bihar Act 19 of 1950) (hereinafter referred to as the said Act), the following proviso shall be substituted, namely :—

‘Provided that during the period beginning on the date of commencement of the Bihar Contingency Fund (Amendment) Second Ordinance 1985, and ending on 31st day of March, 1986, this section shall have effect subject to the modification that for the words “fifty crores of rupees” the words “four hundred crores of rupees” shall be substituted.’

3. *Amendment of section 5 of Bihar Act 19 of 1950.*—To section 5 of the said Act the following provisio shall be added namely :—

“Provided that if advance made from the Contingency Fund in any financial year is authorised by the State Legislature in the current financial year or in succeeding financial year and the amount of such authorisation exceeds the permanent corpus of the Fund, the amount in excess of the permanent corpus shall be placed to the credit of the Consolidated Fund of the State and not to the Contingency Fund.”

4. *Repeal and saving*—(1) The Bihar Contingency Fund (Amendment) Second Ordinance, 1985 (Bihar Ordinance No. 13 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing or action was done or taken,

Dated the 5th August 1985.

P. VENKATASUBBAIH,
Governor of Bihar.

Published in the *Bihar Gazette, Extraordinary*, dated August 8, 1985.
THE BIHAR MOLASSES (CONTROL) (AMENDMENT) ACT, 1985
BIHAR ACT NO. 7 OF 1985

An Act to amend the Bihar Molasses (Control) Act, 1947.

Be it enacted by the Legislature of the State of Bihar in the Thirty-sixth year of the Republic of India as follows :—

1. *Short title and commencement.*—(i) This Act may be called the Bihar Molasses (Control) (Amendment) Act, 1985.

(ii) It shall come into force at once.

2. *Amendment of section 2 of Bihar Act VI of 1947.*—In section 2 of the Bihar Molasses (Control) Act, 1947 (Bihar Act VI of 1947) (hereinafter referred to as the said Act),—

(i) For clause (d) the following clause shall be substituted, namely :—

“(d) ‘Stockist’ means any person holding stocks of molasses for distillation, or for purposes of sale or resale under a licence granted under this Act,”

(ii) After clause (g), the following new clause shall be added, namely :—

“(h) ‘Board’ means Board of Revenue.”

3. *Substitution of new section for section 4 of Bihar Act VI of 1947.*—For section 4 of the said Act, the following section shall be substituted, namely :—

“4. No molasses produced in the State nor any molasses held by the stockists in the State, shall, without the permission of the Controller, be moved by rail, road or river from any place in the State to any other place therein :

Provided that where an agreement or contract for the supply of molasses has been entered into in accordance with the provisions of section 5, when the Controller has issued direction under section 6, permission for such movement shall not be refused by the Controller:

Provided further that the Controller shall not issue movement order for any molasses except on payment of the permit fee by the person desiring to move molasses, as may be prescribed by State Government from time to time by notification in the Official Gazette :

Provided further also that no movement permit shall be required for movement of any molasses to distilleries of this State "

4 *Insertion of a new section 8-C in Bihar Act VI of 1947.*—After section 8-B of the said Act, the following section shall be inserted, namely :—

"8C. *Funds for regulation of adequate storage facilities in respect of molasses.*—(i) Every owner, occupier and manager of a sugar factory shall for the purposes of construction and maintenance, of adequate facilities for the storage of molasses, place in a separate fund such amount, calculated at the rate as may be prescribed by the Government by notification. Provided that the amount as aforesaid shall not exceed one-third of the price received in accordance with the rate prescribed in the Schedule referred to in section 8-A.

(ii) The fund referred to in sub-section (i) above shall be accounted for, maintained and operated in the manner prescribed by rule framed in that behalf."

5. *Amendment of section 10 of Bihar Act VI of 1947.*—After the proviso to section 10 of the said Act, the following proviso shall be added, namely:—

"Provided further, that—

(i) (a) the Controller of Molasses may accept from any person, who is reasonably suspected of having committed an offence punishable under this section, a payment of a sum not exceeding rupees ten thousand in lieu of prosecution or by way of composition for such offences as the case may be; and

(b) in any case in which any molasses has been seized as being liable to confiscation under this Act, may, at any time before the Magistrate has passed an order under this section, release the molasses on payment of any sum not exceeding the value thereof as estimated by the Controller of Molasses including the administrative charges and movements permit fee.

(ii) When the payments referred to above have been duly made the accused person, if in custody, shall be discharged and the molasses seized (if any) shall be released and no further proceedings shall be taken against such person or molasses "

6. *Substitution of new section for section 10-A of Bihar Act VI of 1947.*—For section 10-A of the said Act, the following shall be substituted, namely :—

"10 A. An appeal shall lie to the Board from any order made by the Controller of Molasses under section 10 of the Act :

Provided that, every memorandum of appeal shall be submitted within fifteen days from the date of communication to the appellant of the order appealed against and shall be accompanied by order appealed against in original or by an authenticated copy of such order unless the omission to produce such order or copy is explained to the satisfaction of the Board.

(2) The State Government may on its own motion or on the application of any aggrieved person, revise any order passed under this Act by the Controller, except an order passed under section 10 of the Act :

Provided that no application shall be entertained under this section unless it is made within thirty days of the order complained of."

7. *Insertion of a new clause (ff) after clause (f) in sub-section (2) of section 13 in Bihar Act VI of 1957.*—After clause (f) of sub-section (2) of section 13 of the said Act the following clause shall be inserted, namely :—

"(ff) prescribe the manner in which accounts of funds for regulation of adequate storage facilities in respect of molasses produced in factories shall be maintained and operated."

8. *Repeal and saving.*—(1) The Bihar Molasses (Control) (Amendment) Second Ordinance, 1985 (Bihar Ordinance No. 22 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.

Published in the *Bihar Gazette (Ext)*, dated August 8, 1985.

THE PATNA MUNICIPAL CORPORATION (AMENDING AND VALIDATING) ACT, 1985

BIHAR ACT NO. 8 OF 1985

An Act to amend the Patna Municipal Corporation Act, 1985 and to validate the appointment of the Administrator as also to validate other ancillary matters arising out of the same.

Be it enacted by the Legislature of the State of Bihar in the Thirty-sixth year of the Republic of India as follows:—

1. *Short title, commencement and extent.*—(i) This Act may be called the Patna Municipal Corporation (Amending and Validating) Act, 1985.

(ii) It shall be deemed to have come into force with effect from the 1st January, 1981.

(iii) It shall be deemed to have been made applicable to all the Municipal Corporations of the State of Bihar established under the Bihar Municipal Corporations Act 1978 (Bihar Act 12 of 1978) and it shall remain in force till 31st March 1986.

2. *Amendment of section 545 of Bihar Act 13 of 1952.*—In sub-section (i) of section 545 of the Patna Municipal Corporation Act, 1951 (Bihar 13 of 1952)—

(i) For the words "Six month" the words "One year" shall be substituted; and

(ii) In the proviso—

(a) For the words "Three months" the words "six months" shall be substituted.

3. *Validation.*—Notwithstanding anything contained in any judgment, order, decree or direction of any court, all actions taken or all acts done or appointment made or notification issued by the State Government or by the Administrator of the Corporation during the period from the 15th September 1979 till the date of promulgation of the Patna Municipal Corporation (Amending and Validating) Ordinance, 1985 (Bihar Ordinance No. 25 of 1985) shall be deemed to have been validly taken, done, made or issued as if this Act were in force on the day on which such actions were

taken, acts done appointment made or notifications issued.

4. *Repeal and Saving.*—(1) The Patna Municipal Corporation (Amending and Validating) Ordinance, 1985 (Bihar Ordinance no 25 of 1985) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of the powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which on such thing or action done or taken.

Published in the *Bihar Gazette (Ext.)*, dated August 8, 1985

**THE BIHAR COAL MINING AREA DEVELOPMENT AUTHORITY THIRD ORDINANCE, 1985
BIHAR ORDINANCE NO. 33 1985.**

(Text is omitted as it replaces previous Ordinance—*Editor*]

Published in the *Bihar Gazette, Extraordinary*, dated May 18, 1985.

THE BIHAR PRIVATE MEDICAL (INDIANS SYSTEM OF MEDICINE) COLLEGES (TAKING OVER) THIRD ORDINANCE, 1985.

BIHAR ORDINANCE NO. 19 OF 1985.

[Text omitted as it replaces Ordinance No. 1 and 6 of 1985

—*Editor*]

Published in the *Bihar Gazette Extraordinary*, dated August 8, 1985.

THE BIHAR PRIVATE MEDICAL (INDIAN SYSTEM OF MEDICINE) COLLEGE (TAKING OVER) FOURTH ORDINANCE, 1985.

BIHAR ORDINANCE NO. 32 OF 1985.

Text omitted as it replaces Ordinance No. 19 of 1985

—*Editor*]

THE END

PART IX

WEST BENGAL ACTS & ORDINANCES

1985

Published in the *Calcutta Gazette*, "Ext". Part III, No. 508
dated August 16, 1984

THE WEST BENGAL PREMISES TENANCY (AMENDMENT) ORDINANCE, 1984.

WEST BENGAL ORDINANCE No. IX OF 1984

Whereas it is expedient to amend the West Bengal Premises Tenancy Act, 1956 (West Ben. Act XII of 1956), for the purpose and in the manner hereinafter appearing ;

And Whereas the Legislative Assembly of the State of West Bengal is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action ;

The Governor is pleased, in exercise of the power conferred by clause (1) of article 213 of the Constitution of India, to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the West Bengal Premises Tenancy (Amendment) Ordinance, 1984.

(2) It shall be deemed to have come into force on the 6th day of July, 1984.

2. *Amendment of section 21 of West Ben. Act XII of 1956.*— In section 21 of the West Bengal Premises Tenancy Act, 1956, in clause (a) of sub-section (6), for the words, brackets and figures "or within three years from the date of commencement of the West Bengal Premises Tenancy (Amendment) Ordinance, 1981, (West Ben. Ord. IV of 1981). the words, brackets and figures "or within five years from the date of commencement of the West Bengal Premises Tenancy (Amendment) Ordinance, 1984" shall be substituted.

The 8th August, 1984.

A. P. SHARMA,
Governor of West Bengal.

Published in the *Calcutt Gazette*, "Ext". Part III-A, No. 500,
dated August 10, 1984

THE WEST BENGAL TAXES ON ENTRY OF GOODS INTO LOCAL AREAS ORDINANCE, 1984.

WEST BENGAL ORDINANCE No. VIII of 1984

Whereas it is expedient, to provide for the levy of taxes on the entry of certain kinds of goods into certain local areas in West Bengal for consu-

mption, sale or use in such local areas ;

And Whereas the Legislative Assembly of the State of West Bengal is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action ;

The Governor is pleased, in exercise of the power conferred by clause (1) of the said article, to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the **West Bengal Taxes on Entry of Goods into Local Areas Ordinance, 1984.**

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “dealer”, in relation to taxable goods entering a local area, means a person who either on his own account or on account of a principal or any other person causes such entry or who takes delivery, or is entitled to take delivery, of such goods on such entry for consumption, use or sale therein, and includes the State Government.

(b) “goods” shall have the same meaning as in clause (d) of section 2 of the Bengal Finance (Sales Tax) Act, 1941, (Ben. Act VI of 1941).

(c) “local area” means the area within the limits of a municipality, local body, notified area or notified area authority, as specified in Schedule II, and notified in this behalf by the State Government in the Official Gazette ;

(d) “prescribed” means prescribed by rules made under this Ordinance ;

(e) “registered” means registered under this Ordinance ;

(f) “sale” shall have the same meaning as in clause (g) of section 2 of the Bengal Finance (Sales Tax) Act, 1941 ;

(g) “tax” means tax payable under this Ordinance ;

(h) “taxable goods” means any goods which are not specified in Schedule I ;

(i) “turnover”, used in relation to any period, means the aggregate of the value of taxable goods which a dealer enters or causes to enter in a local area either by purchase or otherwise during such period and after deducting the following amounts, if any :—

(i) the value of such goods returned or despatches out of such local area by the dealer within such period as may be prescribed ;

(ii) the value of such goods as was disposed of by the dealer in any way other than by consumption, use or sale ;

(j) “value”, in relation to taxable goods entered into a local area, means the cost price of goods when the goods are procured by purchase, or the price of goods when procured otherwise and such price shall include (a) shipping duties, (b) transport cost, (c) insurance charges, (d) custom duty, (e) excise duty and (f) sales or purchase tax ;

(k) “year” shall have the same meaning as in clause (i) of section 2 of the Bengal Finance (Sale Tax) Act, 1941.

3. *Taxing Authorities*.—(1) The State Government shall prescribe an authority (hereinafter referred to as the prescribed authority) for carrying out the purposes of this Ordinance.

(2) The State Government or the prescribed authority may appoint persons to assist the prescribed authority.

(3) Any powers, duties or functions of the prescribed authority may be delegated to the persons appointed under sub-section (2) in accordance with such rules as may be prescribed.

(4) The prescribed authority and the persons appointed under sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

4. *Bureau of Investigation*.—(1) Notwithstanding anything contained elsewhere in this Ordinance,—

(a) the Bureau of Investigation as constituted under section 19A of the Bengal Finance (Sales Tax) Act, 1941 (Ben. Act VI of 1941) may, on information or when the State Government so directs, carry out investigation or hold inquiry into any case of alleged or suspected evasion of tax and interest payable under this Ordinance as well as malpractices connected therewith and send a report in respect thereof to the prescribed authority.

(b) the Bureau of Investigation may, for the purpose of holding investigation or inquiry referred to in clause (a), exercise all the powers referred to in section 13 :

Provided that the prescribed authority may, on receipt of a report under clause (a), require the Bureau of Investigation to transfer to it any accounts, registers, vouchers or others documents relating to the said report seized by the Bureau of Investigation and on such transfer such accounts, registers, vouchers or other documents shall be retained by it, subject to the provisions of sub-section (4) of section 13 ;

(c) the Bureau of Investigation may, after a case has been investigated or inquired into by it, by order, assess, re-assess, collect or enforce payment tax, interest or penalty in the case, under this Ordinance ;

(d) the Bureau of Investigation shall have for carrying out the purposes of this Ordinance, the same powers as are referred to in section 20 ;

(e) the Additional Commissioner of Commercial Taxes of the Bureau of Investigation (hereinafter referred to as the Special-Officer) shall assign such functions of the Bureau of Investigation to such of the officers of the Bureau as the Special Officer may think fit.

(2) For the removal of doubts it is hereby declared that subject to the other provisions contained in this Ordinance, the Special Officer shall be competent to exercise, for the purposes of the clauses (a) and (c) of sub-section (1), all the powers of the prescribed authority except the power referred to in sub-section (9) of section 21 and any person appointed under sub-section (1) of section 3 of the Bengal Finance (Sales Tax) Act, 1941, when appointed in the Bureau of Investigation, shall also be competent to exercise all the powers which are exercisable by such person under this Ordinance and the rules made thereunder.

(3) The Special Officer and the other persons appointed in the Bureau of Investigation shall have the jurisdiction over the whole of West Bengal.

5. *Incidence of taxation.*—(1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint, being not earlier than sixty days after the date of the said notification, every dealer whose turnover during the year immediately preceding the commencement of this Ordinance exceeded the taxable quantum shall be liable to pay tax under this Ordinance on his turnover calculated from the date so notified.

(2) Every dealer to whom sub-section (1) does not apply shall, if his turnover calculated from the commencement of any year exceeds the taxable quantum at any time within such year, be liable to pay tax under this Ordinance from the date immediately following the day on which the turnover exceeds the taxable quantum on his turnover calculated from that date.

(3) Every dealer who has become liable to pay tax under this Ordinance shall continue to be so liable until the expiry of three consecutive years, during each of which his turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this latter period his liability to pay tax under this Ordinance, shall cease.

(4) Every dealer whose liability to pay tax under this Ordinance has ceased under the provisions of sub-section (3) shall, if his turnover calculated from the commencement of any year again exceeds the taxable quantum at any time within such year, be liable to pay such tax from the date immediately following the day on which such turnover again exceeds the taxable quantum on his turnover calculated from that date.

(5) The prescribed authority after making such enquiry as he may think necessary and after giving the dealer an opportunity of being heard shall fix the date on and from which such dealers becomes liable to pay tax under sub-section (2) or sub-section (4).

(6) For the purpose of this Ordinance, the expression "taxable quantum" shall mean the quantum which shall be fixed in this behalf by the State Government, by notification in the Official Gazette, but the same shall not be less than rupees one lakh.

(7) Where a registered dealer within a local area purchases or procures any taxable goods from a place outside such area, such registered dealer shall be deemed to have entered or caused to have entered such area irrespective of the mode or manner of despatch or transport of such goods into such area.

6. *Rate of tax.*—(1) The tax payable by a dealer shall be at such rates as the State Government may, by notification in the Official Gazette, specify, but the same shall not exceed four per centum of the turnover of a dealer.

(2) The State Government may specify different rates for different local areas and different taxable goods.

7. *Registration of dealers.*—(1) No dealer shall, being liable to pay tax under this Ordinance, carry on business as a dealer unless he gets himself registered and possesses a registration certificate.

(2) Every dealer required to be registered under sub-section (1) shall make an application in such behalf in the prescribed manner to the prescribed authority within such period as may be prescribed.

(3) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form.

(4) The prescribed authority, may from time to time amend the certificate of registration in accordance with the information received.

(5) The prescribed authority may, for good or sufficient reasons to be recorded in writing, demand from any registered dealer or any person who has applied for registration under this Ordinance, after giving such dealer or person an opportunity of being heard, reasonable security for proper payment of tax payable by him under this Ordinance.

8. *Payment of tax and returns.*—(1) Tax payable under this Ordinance shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Every registered dealer shall furnish returns by such dates and to such authority as may be prescribed.

(3) Before any registered dealer furnishes the returns under sub-section (2), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the full amount of tax or interest due from him under this Ordinance according to such returns, and shall furnish along with the returns a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any dealer discovers any omission or other error in any return furnished by him, he may at any time before the date prescribed for furnishing of the next return by him furnish a revised return; and if the revised return shows a greater amount of tax or interest to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the extra amount.

(5) Every registered dealer shall be liable to pay simple interest at the rate of two per centum of the amount of tax due under this section for each English calendar month for the period for which tax remains unpaid. The interest shall be payable in the same manner as provided for payment of tax.

9. *Assessment of tax.*—(1) If no returns are furnished by a registered dealer in respect of any period by the prescribed date, or if the prescribed authority is not satisfied that the returns furnished are correct and complete, the prescribed authority shall proceed in such manner as may be prescribed to assess to the best of his judgment the amount of the tax or interest due from the dealer and in making such assessment shall give the dealer a reasonable opportunity of being heard; and in the case of failure by a registered dealer to submit in respect of any period a return under section 8 by the prescribed date, the prescribed authority may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty in addition to the amount of the tax or interest so assessed a sum not exceeding one-half of the tax so assessed.

Provided that no penalty under this sub-section shall be imposed in respect of the same fact for which a prosecution under clause (c) of sub-section (1) of section 21 has been instituted and no prosecution would lie *vice versa* :

Provided further that different procedures for assessment in respect of different classes of dealers may be prescribed.

(2) If, upon information which has come into its possession, the prescribed authority is satisfied that any dealer, who has been liable to pay tax under this Ordinance in respect of any period but has failed to get himself registered or has not been registered, the prescribed authority shall proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer a reasonable opportunity of being heard; and the prescribed authority may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed a sum not exceeding one and a half times that amount :

Provided that no penalty under this sub-section shall be imposed in respect of the same fact for which a prosecution under sub-section (2) of section 21 has been instituted and no prosecution would lie *vice versa*.

(3) No assessment under sub-section (1) shall be made after the expiry of four years, and no assessment under sub-section (2) shall be made after the expiry of six years, from the end of the year in respect of which or part of which the assessment is made :

Provided that when a fresh assessment is required to be made in pursuance of an order under section 18 or in pursuance of any other order of any court, such fresh assessment may be made at any time within four years from the date of such order.

(4) In computing the time limited by sub-section (3) for making any assessment under sub-section (1) or sub-section (2), the period during which the prescribed authority is restrained from commencing or continuing any proceeding for such assessment by an order of any court shall be excluded.

(5) The amount of tax and interest—

(a) due where the returns are furnished without receipt showing full payment thereof, or

(b) assessed under sub-section (1) less the sum, if any, already paid by the dealer in respect of the said period, or

(c) assessed under sub-section (2), shall together with any penalty that may be directed to be paid under the provisions of sub-section (1) or sub-section (2) be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified in a notice issued by the prescribed authority for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice.

Provided that the prescribed authority may, in respect of any particular dealers and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty or interest (if any) by instalments.

(6) Any amount of tax or penalty or interest which remains unpaid after the date specified in the said notice shall be recoverable as an arrear of land-revenue as if it were payable to the Collector :

Provided that where security has been furnished by a dealer in pursuance of a demand under sub-section (5) of section 7, the prescribed authority

may, for good and sufficient reasons, realise any tax, penalty or interest remaining unpaid as aforesaid or part thereof by ordering forfeiture of the whole or any part of the security.

(7) Where any proceedings for the recovery as an arrear of land-revenue of any tax, penalty or interest remaining unpaid has commenced under sub-section (6) and the amount of tax, penalty or interest is subsequently modified in consequence of any assessment made or order passed on appeal, revision or review under section 18, the prescribed authority may, in such manner and within such period as may be prescribed, inform the dealer and such authority by whom or under whose order the recovery is to be made as may be prescribed in this behalf, and thereupon such proceedings may be continued as if the amount of tax, penalty or interest as so modified, enhanced or reduced had been substituted for the tax, penalty or interest which was to be recovered under sub-section (6).

(8) Any assessment made under this section shall be without prejudice to any prosecution instituted for an offence against this Ordinance.

(9) For the purposes of levy and assessment of tax under this Ordinance, it shall be presumed that every registered dealer or person liable to get himself registered for the purposes of this Ordinance whose place of business is within a local area is liable to pay the tax on the purchase value of all the taxable goods as are dealt with by him and the burden of proving that any transaction of such dealer in any of the taxable goods is not liable to tax shall lie on such dealer.

10. *Special mode of recovery.*—(1) Notwithstanding the issue of a requisition under sub-section (6) or sub-section (7) of section 9 for realisation of tax, penalty or interest as arrears of land-revenue, the prescribed authority, at any time or from time to time, by notice in the prescribed form may require any person, from whom money is due or may become due to the dealer or any person who holds or may subsequently hold money for or on account of the dealer, to deposit in the Treasury under the appropriate head of account either forthwith upon the money becoming due or being held or at within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears or the whole of the money when it is equal to or less than the amount.

(2) A notice under this section may be issued to any person who holds or may subsequently hold or any money for or on account of the dealer jointly with any other person and, for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the dealer at his last known address and, in the case of a joint account, to all the joint holders at their last addresses known to the prescribed authority.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice and, in particular, where any such notice is issued to a post-office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment

is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim respecting any property in relation to which a notice under this section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the prescribed authority that the sum demanded or any part thereof is not due to the dealer or that he does not hold any part money for or on account of the dealer or that the money demanded or any thereof is not likely to be due to the dealer, or be held for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to deposit any such sum part thereof, as the case may be.

(7) The prescribed authority may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

(8) The Treasury shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying shall be fully discharged from his liability to the dealer to the extent of the amount so paid.

(9) Any person discharging any liability to the dealer after receipt of a notice under this section shall be personally liable to the prescribed authority to the extent of his own liability to the dealer so discharged or to the extent of the dealer's liability for any sum due under this Ordinance; whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be a dealer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were any arrear due from him and the notice shall have the same effect as attachment of a debt.

(11) The prescribed authority may apply to the court in whose custody there is money belonging to the dealer for payment to him of the entire amount of such money or, if it is more than the amount due, an amount sufficient to discharge the tax, penalty or interest :

Provided that any dues or property exempt from attachment in execution of a decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any requisition made under this section.

11. *Refunds.*—(1) The prescribed authority shall, in the prescribed manner, refund to a dealer any amount of tax, penalty or interest paid by such dealer in excess of the amount due from him under this Ordinance, either by cash payment or by deduction or adjustment of such excess from the amount of tax, penalty or interest due in respect of other period.

(2) The prescribed authority shall, in the prescribed manner, pay a simple interest at the rate of two per centum for each English calendar month of delay in making refund to a dealer the amount of tax paid in excess which arises out of an order under section 18 from the first day of the English calendar month next following the expiry of three months from the date of such order upto the month preceeding the month in which the

refund is made in the manner referred to in sub-section (1), upon the amount of tax refundable to him according to such order.

(3) Nothing in sub-section (1) shall be deemed to empower the prescribed authority to amend, vary or rescind any assessment or to amend, vary or rescind any order passed on appeal, revision or review under section 18, or to confer on a dealer any relief in addition to what he is entitled under the provisions of this Ordinance.

12. Every dealer shall keep a true account of the value of goods entered or caused to be entered by him into the local area and if the prescribed authority considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns, he may require such dealer by notice in writing to keep such accounts including records of entry and despatch as may be prescribed.

13. *Production and inspection of accounts and documents and search of premises.* - (1) The prescribed authority may, subject to such conditions as may be prescribed, require any person—

(a) to produce before him any accounts, registers or documents,

(b) to furnish any information relating to the entry of goods, stock thereof, or purchases, sales or deliveries of goods by, the person or relating to any other matter,

as may be deemed necessary for the purposes of this Ordinance.

(2) (a) All accounts, registers and documents relating to the entry and stocks of goods of, or purchases, sales and deliveries of goods by, any dealer, and

(b) all goods kept in any place of business of any dealer, shall at all reasonable times be open to inspection by the prescribed authority.

(3) If the prescribed authority or any person appointed under sub-section (2) of section 3 to assist him, has reasons to suspect that any dealer is attempting to evade payment of any tax under this Ordinance, it or he may for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary.

(4) The prescribed authority or any person appointed under sub-section (2) of section 3 to assist him, shall grant a receipt for any of the accounts, registers or documents seized by him under sub-section (3) and shall retain any of them only for such period as may be necessary for examination thereof or for prosecution or for any of the purposes of this Ordinance :

Provided that—

(a) the prescribed authority shall not retain any of the accounts, registers or documents seized by him under sub-section (3) for a period exceeding one year from the date of the seizure unless he records, in writing, the reasons therefor, and

(b) any person, appointed to assist the prescribed authority under sub-section (2) of section 3, shall not retain any of the accounts, registers or documents seized by him under sub-section (3) for a period exceeding one year from the date of seizure unless he states the reasons in writing therefor and obtains sanction, in writing, of the prescribed authority in respect thereof.

(5) For the purposes of sub-section (2) or sub-section (3) the prescribed authority or any person appointed under sub-section (2) of section 3

to assist him may enter and search any place of business of any dealer or any other place where the prescribed authority or any person appointed under sub-section (2) of section 3 to assist him has, upon information received, reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business.

Explanation—The prescribed authority or any person appointed under sub-section (2) of section 3 to assist him, may, while entering and searching any place of business of any dealer or any other place referred to in this sub-section, break open any door or window, or any almirah, safe or container in which he has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or document of this business.

(6) Subject to the provisions of any law for the time being in force, the prescribed authority or any person appointed under sub-section (2) of section 3 to assist him, may, for carrying out the purposes of this Ordinance, require any bank, post office, railway, transporter, carrier, shipper or clearing, forwarding or transporting agent to furnish to him any information or statement useful for or relevant to any proceedings under this Ordinance and he may also examine any accounts, registers, documents or other records in the possession of such bank, post office, railway, transporter, carrier, shipper or clearing, forwarding or transporting agent.

14. *Information to be furnished regarding change of business.*—If any dealer to whom the provisions of section 8 apply,—

(a) sells or otherwise disposes of his business or any place of business or effects or comes to know of any other change in the ownership of the business,

(b) discontinues his business or changes his place of business or opens a new place of business,

(c) changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in his certificate of registration, or

(d) in the case of a company incorporated under a statute, effects any change in the constitution of its Board of Directors; he shall within the prescribed time and in the prescribed manner inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall in like manner inform the said authority.

15. *Additional information to be furnished regarding the officers responsible.*—Every registered dealer shall within the period prescribed send to the prescribed authority in the manner prescribed stating the names of the manager and all officers of other designation who are responsible for ensuring compliance with any requirement made of such dealer under this Ordinance. Such declaration shall be revised from time to time to incorporate therein change, if any, on receipt of information from the dealer.

16. *Transfer of business.*—Where the ownership of the business of a registered dealer is transferred absolutely by sale, gift, bequest, inheritance or otherwise or transferred by way of lease and the transferee or the lessee carries on such business either in its old name or in some other name, the transferee or the lessee shall for all the purposes of this Ordinance (except for liabilities under this Ordinance already discharge by such dealer) be deemed to be and to have always been registered (in the case

of a lease for so long as the lease subsists) as if the registration certificate of such dealer had initially been granted to the transferee or the lessee; and the transferee or the lessee shall on application to the prescribed authority be entitled to have the registration certificate amended accordingly.

17. *Bar to certain proceedings.*—No assessment made and no order passed under this Ordinance or the rules made thereunder by the prescribed authority or any person appointed under section 3 to assist him shall be called into question in any Civil Court, and save as is provided in section 18, no appeal or application for revision or review shall lie against any such assessment or order.

18. *Appeal-revision and review.*—(1) Any dealer may in the prescribed manner appeal to the authority as may be prescribed against any assessment within sixty days or such further period as may be allowed by the said authority for cause shown to his satisfaction from the receipt of a notice of demand issued in respect thereof:

Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of the tax and interest as the appellant may admit to be due from him has been paid.

Explanation.—For the purpose of this sub-section, a notice of demand means any notice served according to the provisions of this Ordinance for realisation of penalty, interest or tax imposed thereunder.

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1) may—

(a) confirm, reduce, enhance or annul the assessment; or

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.

(3) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the prescribed authority, upon application or of his own motion, may revise any assessment made or order passed under this Ordinance or the rules made thereunder by a person appointed under section 3 to assist him:

Provided that before rejecting any application for revision of any such order the prescribed authority shall consider it and shall record reasons for such rejection:

Provided further that no application for revision shall lie to the prescribed authority in respect of any assessment if an appeal lies under sub-section (1) to the authority as may be prescribed in respect of such assessment.

(4) Subject to such rules as may be prescribed, any assessment made or order passed under this Ordinance or the rules made thereunder by any person appointed under section 3 may be reviewed by the person passing it upon application or of his own motion.

(5) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given reasonable opportunity of being heard.

19. *Penalty for concealment of entry, furnishing of incorrect particulars, etc.*—(1) If the prescribed authority in the course of any proceedings

under this Ordinance, is satisfied that any dealer—

(a) has concealed any entry of taxable goods or any particulars thereof, or

(b) has furnished incorrect statement of his turnover or incorrect particulars of the goods entered by him or caused to be entered by him into the local area, in the return submitted under section 8 or otherwise,

with intent to reduce the amount of the tax payable by him under the Ordinance, the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, by an order in writing direct that he shall in addition to any tax, penalty or interest already levied and payable by him under this Ordinance, pay by way of penalty a sum not exceeding one and a half times the amount of the tax, if any, which would have been avoided by him if such concealed entries or particulars thereof were not taken into account, or such incorrect statement of turnover or particulars of entries, were accepted as correct, in assessing the tax payable by him under this Ordinance.

(2) Any penalty imposed under sub-section (1) shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified by the prescribed authority in a notice issued for this purpose and the date to be so specified shall not be less than fifteen days from the date of service of such notice :

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the date of such payment or allow the dealer to pay the penalty imposed in such number of instalments as the prescribed authority may determine.

(3) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (2) or where such date has been extended under the proviso to that sub-section after the expiry of the extended time, shall be recoverable as an arrear of land-revenue payable to the Collector.

20. *Power of prescribed authority to take evidence on oath etc.*—The prescribed authority or any person appointed to assist him under sub-section (2) of section 3 shall, for the purposes of this Ordinance, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, (5 of 1908) when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath or affirmation :

(b) compelling the production of documents ; and

(c) issuing commissions for the examination of witnesses ; and any proceeding under this Ordinance before the prescribed authority or any person appointed to assist him under sub-section (2) of section 3 shall be deemed to be a "Judicial proceeding" within the meaning of section 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860).

21. *Offences and penalties.*—(1) Whoever—

(a) carries on business as dealer without furnishing the security demanded under sub-section (5) of section 7 ; or

(b) submits a false return ; or

(c) fails without reasonable cause to furnish a return or to pay the full amount of tax and interest due from him according to each return under section 8 ; or

(d) fails to comply with the provisions of section 12 ; or

(e) refuses to comply with any requirement made of him under sub-section (1) of section 13 ; or

(f) neglects to furnish any information required by section 14 or section 15,

shall be punishable with simple imprisonment which may extend to six months or with fine or with both and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(2) Whoever carries on business as a dealer in contravention of sub-section (1) of section 7 shall be punishable with simple imprisonment, which may extend to one year or with a minimum fine of rupees one thousand, or with both, and when the offence is a continuing one, with a daily fine not exceeding rupees one hundred during the period of the continuance of the offence.

(3) Whoever wilfully attempts in any manner to evade or defeat any tax imposed under this Ordinance, shall, in addition to any other penalty provided by any other law for the time being in force, be liable also for the offence of dishonest misappropriation of property under section 403 of the Indian Penal Code (45 of 1960) and shall be punishable with imprisonment of either description for a term which may extend to two years or with fine or with both.

(4) Whoever knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information, shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine or with both.

(5) Whoever obstructs any officer making inspection or a search or seizure under section 13 shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to rupees five hundred or both.

(6) Whoever abets any of the offences mentioned in sub-sections (2) to (5), shall, if the act abetted is committed in consequence of the abetment, be punished with the punishment provided for the offence.

(7) Whoever fails without reasonable cause to pay the full amount of tax and interest payable by him and furnish a revised return in accordance with section 8 shall be punishable with imprisonment of either description for a term which may extend to three years or with fine or with both.

(8) In any prosecution for an offence under this Ordinance which requires a culpable mental state on the part of accused, the Court shall presume the existence of such culpable mental state until the contrary is proved.

Explanation.—In this sub-section “culpable mental state” includes intention, motive, knowledge of a fact and belief in, or reason to believe, a fact.

(9) No Court shall take cognizance of any offence under this Ordinance, or under the rules made thereunder except with the previous sanction of the prescribed authority, and no Court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try such offence.

(10) The offences punishable under sub-sections (1) to (7) shall be cognizable.

22. *Liability to prosecution.*—(1) Where an offence under this Ordinance has been committed by a dealer, every person who at the time the offence was committed, was in charge of and was responsible to the dealer for the conduct of the business of the dealer as well as the dealer shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under this Ordinance, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a dealer and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer as the case may be, he shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

23. *Compounding of offences.*—(1) Subject to such conditions as may be prescribed, any person alleged to have committed an offence under any of the clause other than clause (a) and clause (b) of sub-section (1) and sub-sections (2), (3), (4), (6) and (7) of section 21 or under any rules made made under this Ordinance, may either before or the commencement of any proceedings against him in respect of the such offence, at his option, compound such offence by paying to the prescribed authority such sum not exceeding ten thousand rupees as may be determined by the prescribed authority

(2) On payment in full of such sum as may be determined by the prescribed authority under sub-section (1)—

(a) no proceeding shall be commenced against such person as aforesaid; and

(b) if any proceedings have been already commenced against such person as aforesaid, such proceedings shall not be further proceeded with.

24. *Indemnity*—No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Ordinance or the rules made thereunder.

25. *Returns, etc. to be confidential.*—(1) All particulars contained in any statement made, return furnished or accounts or documents, produced in accordance with this Ordinance, or in any record of evidence given in the course of any proceedings under this Ordinance other than proceedings before a Criminal Court, shall save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no Court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it

any such statement, return, account, document or record of any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosures of any of the particulars referred to sub-section (1)—

(a) for the purpose of any prosecution under the Indian Penal Code, (45 of 1860), the Prevention of Corruption Act, 1947 (2 of 1947), this Ordinance, or any preliminary inquiry for ascertaining whether such prosecution lies,

(b) in connection with any suit or proceeding in a Civil Court to which the State Government or any person appointed under this Ordinance is a party and which relates to any matter arising out of any proceeding under this Ordinance,

(c) where it is necessary to make such disclosure for the purposes of this Ordinance,

(d) to an officer of the Central Government or a State Government for the purpose of enabling the Central Government or the State Government, as the case may be, to levy or realise any tax or duty imposed by it,

(e) to an officer of the Central Government or a State Government for the audit of receipts and refunds of the tax imposed under this Ordinance;

(f) in connection with an inquiry concerning allegations of corruption or official misconduct against any Government servant or for the purpose of taking disciplinary action against such Government servant,

(g) in an inquiry into a charge of misconduct in connection with any proceeding under this Ordinance against any legal practitioner, chartered accountant or other person entitled to appear on behalf of a dealer before the taxing authorities under this Ordinance, to the authority competent to take disciplinary action against such legal practitioner, chartered accountant or other person,

(h) to any officer of the State Government to enable such officer to perform his executive functions relating to the affairs of the State or

(i) to any person for purposes other than those referred to in clauses (a) to (h), if the State Government consider necessary in the public interest.

26. *Power to make rules.*—The State Government may make rules, with prospective or retrospective effect, for carrying out the purposes of this Ordinance.

27. *Power of State Government to add to or omit from Schedule I or Schedule II.*—The State Government, after giving, by notification in the Official Gazette, not less than seven days' notice of its intention so to do, may, by like notification, add to, or omit any item so added from, Schedule I or Schedule II and thereupon Schedule I or Schedule II, as the case may be, shall be deemed to be amended accordingly.

28. *Power of State Government to exempt turnover from levy of tax.*—Notwithstanding anything contained in section 5, no tax shall be payable under this Ordinance,—

(a) on the turnover of such goods, or

(b) on such amount of turnover,

as may be specified by the State Government in this behalf, by notification in the Official Gazette, subject to the conditions and exceptions, if any, set out therein.

29. *Power to remove difficulties*—If any difficulty arises in given effect to the provisions of this Ordinance, the State Government may, by notification in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty during the period of two years from the commencement of this Ordinance.

SCHEDULE I

[See section 3(h).]

Sl. No.	Name of goods.
1.	Aluminium foils
2.	Arms and ammunitions
3.	Articles made of bamboo and cane
4.	Amplifiers, loudspeaker and parts thereof
5.	Agricultural implements
6.	Books
7.	Betel-nuts and betel leaves
8.	Brass and bell-metal household articles
9.	Barley and products thereof
10.	Biscuits
11.	Beddings
12.	Bins
13.	Bangles
14.	Bio-gas plants and accessories thereof
15.	Bee-keeping apparatus
16.	Broom and broom sticks
17.	Bricks excluding fire bricks
18.	Cereals and pulses and products thereof
19.	Cooked food
20.	Common salt
21.	Cotton yarn, cotton and cotton waste
23.	Chamachur and dalmat
22.	Charkha
24.	Charcoal
25.	Condoms
26.	Conch shell products and Conch shell
27.	Crutches, artificial limbs, hearing aid and spectacles
28.	Combs
29.	Cine equipments and cameras including parts and accessories thereof
30.	Confectioneries and sweetmeats
31.	Cycles
32.	Cement
33.	Drugs
34.	Diary, cards and calendars

Serial No.	Name of goods
35.	Domestic containers made of plastic, rubber and artificial synthetic resin
36.	Domestic utensils
37.	Eggs
38.	Exercise books
39.	Electrical appliances, that is to say, electric fans, electric iron, blender and similar other kitchen implements, household ovens, vacuum cleaner, washing machine, electric cooking range, electric shavers including parts and accessories
40.	Flowers and plants
41.	Fruits fresh or dried
42.	Fertilizer and manures
43.	Footwear
44.	Fish hook
45.	Films, lenses and all ancillary equipments and parts thereof
46.	Fire works but not including industrial explosives and detonators
47.	Furniture
48.	Garments
49.	Gold and silver
50.	Handloom products
51.	Hosiery goods
52.	Honey
53.	Hair oil
54.	Iron and Steel safes and armirahs
55.	Ice, Icecream, Ice candy
56.	Incense sticks
57.	Kerosene
58.	Livestock including poultry
59.	Lac and shellac
60.	Linoleum
61.	Liquefied petroleum gas
62.	Meat, fish and vegetables
63.	Milk including powdered and condensed milk
64.	Mathematical instrument boxes and maps
65.	Mat and matstick
66.	Matches
67.	Marble chips
68.	Newspaper
69.	Non-cotton yarn
70.	Oil cakes
71.	Office equipment other than computers
72.	Paper
73.	Periodicals
74.	Poultry feed and cattle feed
75.	Pen, Pencil and ink
76.	Paped

Serial No.	Name of goods
77.	Perambulators and push chairs and parts thereof
78.	Powders of food drink
79.	Paper boards and straw boards
80.	Pipe and pipe fittings
81.	Raw Jute
82.	Radio and parts thereof
83.	Sago and tapioca globules
84.	Seeds
85.	Soaps and detergents
86.	Straw, hay and grass
87.	Slates and pencils thereof
88.	Spirits
89.	Silk worm eggs and cocoons
90.	Smoking aids
91.	Synthetic stones
92.	Spices
93.	Surgical dressings
94.	Shoe polish
95.	Sanitary wares and sanitary fittings
96.	Shaving sets and tackles including accessories
87.	Toys and dolls
98.	Tea, coffee and beverages
99.	Tiles
100.	Tooth paste and tooth brush
101.	Vacuum flask and refills thereof
102.	Vanaspati
103.	Voltage stabilizer
104.	Water, whether or not aerated

SCHEDULE

[See section 2(o)]

Serial No.	Name of Municipality, Local Body, Notified Area or Notified Area Authority :
1.	Asansol Durgapur Planning Area as declared as such under section 9 of the West Bengal Town and Country (Planning and Development) Act, 1979
2.	Siliguri Jalpaiguri Planning Area as declared as such under section 9 of the West Bengal Town and Country (Planning and Development) Act, 1969
3.	Burdwan Municipality
4.	Kalna Municipality
5.	Katwa Municipality
6.	Dainhat Municipality
7.	Suri Municipality
8.	Rampurhat Municipality
9.	Bolpur Municipality
10.	Dubrajpur Municipality
11.	Bankura Municipality
12.	Vishnupur Municipality

Serial Name of Municipality, Local Body, Notified Area or
No. Notified Area Authority :

13. Sonamukhi Municipality
14. Midnapore Municipality
15. Tamulk Municipality
16. Ghatal Municipality
17. Chandrakona Municipality
18. Ramjibanpur Municipality
19. Khirpai Municipality
20. Kharar Municipality
21. Kharagpur Municipality
22. Contai Municipality
23. Jhargram Municipality
24. Arambag Municipality
25. Tarakeswar Municipality
26. Diamond Harbour Municipality
27. Joynagar-Mazilpur Municipality
28. Gobardanga Municipality
29. Beduria Municipality
30. Basirhat Municipality
31. Taki Municipality
32. Ashokenagar-Kalyangarh Municipality
33. Habra Municipality
34. Krishnagar Municipality
35. Nabadwip
36. Santipur Municipality
37. Ranaghat Municipality
38. Birnagar Municipality
39. Chakdah Municipality
40. Berhampore Municipality
41. Murshidabad Municipality
42. Jaiganj-Azimganj Municipality
43. Kandi Municipality
44. Jangipur Municipality
45. Dhulian Municipality
46. Beldanga Municipality
47. Alipurduar Municipality
48. Englishbazar Municipality
49. Old Malda Municipality
50. Darjeeling Municipality
51. Kurseong Municipality
52. Kalimpong Municipality
53. Balurghat Municipality
54. Raiganj Municipality
55. Islampur Municipality
56. Cooch Behar Municipality
57. Dinhata Municipality
58. Tufanganj Municipality
59. Purulia Municipality

Serial No.	Name of Municipality, Local Body, Notified Area or Notified Area Authority
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- | | |
|-----|----------------------------------|
| 60. | Jhalda Municipality |
| 51. | Raghunathpur Municipality |
| 62. | Mathabhanga Town Committee |
| 63. | Mekliganj Town Committee |
| 64. | Haldibari Town Committee |
| 65. | Sainthia Notified Area Authority |
| 66. | Mirik Notified Area Authority |
| 67. | Haldia Notified Area Authority |

A. P. SHARMA.

The 7th August, 1984

Governor of West Bengal.

THE WEST BENGAL CO-OPERATIVE SOCIETIES ACT, 1983

The following Act of the West Bengal Legislature, having been assented to by the President was published in the *Calcutta Gazette*, (Ext.), Part III, No. 343, dated May 23, 1984.

WEST BENGAL ACT XLV OF 1983

An Act to consolidate and amend the law relating to Co-operative societies in West Bengal.

Whereas it is necessary and expedient to make provisions to give a healthy impetus and a sense of purpose for the co-operative movement in West Bengal, to promote thrift, selfhelp and mutual aid amongst people with needs and interests in common, to provide for clean, devoted and efficient management relevant to the needs of, and infuse a new life into, the co-operative societies in West Bengal, to diversify their activities, put them on sound financial footing and ensure democratic functioning, to generate employment, to increase production in all sectors of life including agriculture and industry, and above all, to bring about economic and social regeneration including better and happier conditions of living for the weaker sections of the community and to bring them within the fold of co-operative movement, and for that purpose, to consolidate and amend the law relating to co-operative societies in West Bengal ;

It is hereby enacted in the Thirty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the West Bengal Co-operative Societies Act, 1983.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may by notification appoint, and different dates may be appointed for different provisions of this Act.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) “administrator” means an administrator appointed under section 30 ;

(2) “apex society” means a co-operative society whose area of operation extends to the whole of West Bengal and the primary object of

which is to promote the objects, and to provide facilities for the operation of other co-operative societies which are its members, and includes a State Co-operative Bank ;

(3) "arbitrator" means an arbitrator appointed under section 96 or section 97, and includes a Chief Arbitrator ;

(4) "audit officer" means a person appointed or authorised as such under section 90 ;

(5) "board" means a board of directors for a co-operative society constituted under section 27 ;

(6) "by-law" means a by-law registered under this Act, and includes an amendment thereof ;

(7) "central co-operative bank" has the same meaning as in the Reserve Bank of India Act, 1934 (2 of 1934) ;

(8) "central co-operative land development bank" means a co-operative society the objects of which include the creation of funds for lending money to its members and to co-operative land development banks ;

(9) "central society" means a co-operative society having such area of operation within a district as may be prescribed, and includes a Central Co-operative Bank ;

(10) "consumers' co-operative society" means a co-operative society the primary object of which is to supply consumer goods and to render such other services to its members as may be required in the matter of supply and production of consumer goods, and includes a federation of such co-operative societies ;

(11) "co-operative farming society" means a co-operative society which has as its principal object the organising cultivation of lands held by it or by its members jointly or otherwise with a view to increasing agricultural production and employment by proper utilisation of land, labour and other resources ;

(12) "co-operative land development bank" means a co-operative society, the objects of which include the creation of funds for lending money to its members on long-term for improvement of agricultural land and for other productive purposes.

Explanation—In this clause,—

(i) "long-term" shall mean a term exceeding three years ;

(ii) "productive purpose" shall mean such effort, activity or constructions as may be prescribed.

(13) "co-operative society" means a co-operative society registered or deemed to be registered under this Act ;

(14) "co-operative society with limited liability" means a co-operative society having the liability of its members limited by its by-laws to the amount, if any, unpaid on the shares respectively held by them or to such amount as they may respectively thereby undertake to contribute to the assets of the co-operative society in the event of its being wound up ;

(15) "co-operative society with unlimited liability" means a co-operative society having, subject to its by-laws, an unlimited liability of its members to contribute jointly and severally in any deficiency in the assets of the co-operative society ;

(16) "co-operative year" means the year commencing on the first day of July ;

(17) "co-operative credit society" means a co-operative society, the primary object of which is to create funds for lending money to its members and includes a credit union ;

(18) "co-operative housing society" means a co-operative society, the object of which is to provide its members with dwelling houses, apartments, or lands for construction of dwelling houses or apartments, and maintenance of common services in connection therewith, and includes a federation of such societies ;

(19) "co-operative range" means such area within the jurisdiction of an officer not below the rank of an Assistant Registrar of Co-operative Societies as may be prescribed ;

(20) "dispute" means any matter capable of being the subject of civil litigation, and includes a claim in respect of any sum payable to or by a co-operative society ;

(21) "district co-operative union" means a co-operative society registered under this Act having its area of operation extending to the whole of a co-operative range and the primary object of which is to assist the State Co-operative Union in implementing its object and includes a central society ;

(22) "engineers' co-operative", means a co-operative society formed of unemployed—

(i) degree holders in any branch of engineering, technology, commerce, arts or agriculture, or

(ii) diploma holders in any branch of engineering, technology or agriculture, or

(iii) certificate holders in any industrial trade, for their exclusive benefit, the percentage of degree or diploma holders in any branch of engineering or technology in the membership of the co-operative society being not less than sixty per cent.;

(23) "farmers' service co-operative society" means an agriculture co-operative society, the primary object of which is to render assistance, financial or otherwise, to farmers (particularly small and marginal farmers), rural artisans and agricultural labourers ;

(24) "financing bank" includes a central co-operative bank, a State co-operative bank, a central co-operative land development bank, a primary co-operative bank, State Bank of India, or a nationalised bank or a regional rural bank, the object of which is to create funds for lending money to the co-operative societies or other institutions or both, declared as such by the State Government ;

(25) "industrial co-operative society" means a co-operative society, the object of which includes manufacture and marketing of goods by or with the help of its members and providing supplies and services to them and to small producers and entrepreneurs, and includes a co-operative society established with the object of facilitating the operation of such society ;

(26) "Inspector of Co-operative Societies" means a person appointed as such by the Registrar ;

(27) "liquidator" means a liquidator appointed under section 100 ;

(28) "member" means a person joining in an application for registration of a co-operative society, which is subsequently registered or a person admitted to the membership of a co-operative society after its

registration under this Act, and includes a joint member.

Explanation.—For the purpose of this clause ‘joint member’ shall mean any one of the persons (including husband and wife and father and son or unmarried daughter) jointly admitted to the membership of a co-operative society ;

(29) “net profit” means profit after deduction of establishment charges, contingent charge, interest payable on loans and deposits, audit fees and such other sums as may be prescribed ;

(30) “notification” means a notification published in the Official Gazette ;

(31) “officer” includes a Chairman, Vice-Chairman, secretary, joint secretary, assistant secretary, managing director, manager, deputy manager, assistant manager, treasurer, director of a board, auditor elected, if any, from amongst members and any other person empowered under the rules or the by-laws to give direction relating to the affairs of a co-operative society, and also includes a Government officer deputed by the State Government or the Registrar under section 28 or an administrator appointed by the State Government or the Registrar under section 30 to manage the affairs of a co-operative society ;

(32) “prescribed” means prescribed by rules made under the Act ;

(33) “primary co-operative bank” has the same meaning as in the Reserve Bank of India Act, 1934 (2 of 1934) ;

(34) “primary co-operative credit society” means a co-operative society, the primary object of which is to create fund for lending money to its members ;

(35) “primary co-operative agricultural credit society” means a co-operative society, the primary object of which is to create fund for lending short-term crop loan and other agricultural inputs to its members.

Explanation.—In this clause, “short-term” shall mean a term not exceeding one year ;

(36) “primary society” means a co-operative society, the object of which is to promote the common interests of its members in accordance with the provisions of this Act or the rules or the by-laws ;

(47) “Registrar” means a Registrar appointed under section 9 and includes any other person appointed under that section to assist the Registrar ;

(38) “relative” has the same meaning as in the Companies Act, 1956 (1 of 1956) ;

(39) “Reserve Bank of India” means the Reserve Bank of India constituted under the Reserve Bank of India, Act, 1934 (2 of 1934) ;

(40) “rules” means the rules made by the State Government under this Act ;

(41) “State Co-operative Bank” has the same meaning as in the Reserve Bank of India Act, 1934 ;

(42) “State Co-operative Union” means a co-operative society registered under this Act, having its area of operation extending to the whole of West Bengal, and the primary object of which is—

- (a) to spread education on co-operative principles and practices,
- (b) to arrange for training of the employees of co-operative soci-

eties, and of the employees deputed by the State Government, on co-operative principles and practices,

(c) to deal with and solve the problems of co-operative societies which are its members,

(d) to develop the existing co-operative societies,

(e) to organise and promote new co-operative societies,

(f) to propagate and publicise co-operative principles and ideas, and

(g) to perform such other functions as may be prescribed ;

(43) "Tribunal" means the Co-operative Tribunal constituted under section 135 ;

(44) "Trustee" means a trustee appointed under section 44.

3. *Repeal and savings.*—(1) The West Bengal Co-operative Societies Act, 1973 (West Ben. Act XXXVIII of 1973), is hereby repealed.

(2) Notwithstanding such repeal, anything done or suffered or any action taken (including any rule made, any transaction entered into, any notification or notice issued with prospective or retrospective effect, any order passed, any appointment or registration made, any suit or proceeding commenced, any dispute decided or referred to arbitration, any right or title accrued, or any liability or obligation or penalty incurred) under the Co-operative Societies Act, 1912 (2 of 1912) or the Bengal Co-operative Societies Act, 1940 (Ben. Act XXI of 1940) or the West Bengal Co-operative Societies Act, 1973 shall be deemed to have been done or suffered or taken under this Act, as if the provisions of this Act were in force at all material times when such thing was done or suffered or such action was taken,

(3) Every co-operative society existing at the commencement of this Act which has been registered or deemed to have been registered under the Co-operative Societies Act, 1912 or the Bengal Co-operative Societies Act, 1940 or the West Bengal Co-operative Societies Act, 1973 shall be deemed to have been registered under this Act, and its by-laws shall, in so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded and shall to such extent be deemed to be registered under this Act.

4. *Construction of references to Act 2 of 1912, Ben. Act XXI of 1940 and West Ben. Act XXXVIII of 1973.*—All references to the Co-operative Societies Act, 1912 or to the Bengal Co-operative Societies Act, 1940 or to the West Bengal Co-operative Societies Act, 1973 occurring in any enactment for the time being in force in West Bengal shall, in the application of any such enactment thereto, be construed as references to this Act, and anything done or any proceeding commenced in pursuance of any such enactment on or after the commencement of this Act shall be deemed to have been done or commenced and to have had effect as if any reference in such enactment to the Co-operative Societies Act, 1912 or to the Bengal Co-operative Societies Act, 1940 or to the West Bengal Co-operative Societies Act, 1973 had been a reference to this Act and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.

5. *The Companies Act, 1956 not to apply.*—The provisions of the Companies Act, 1956 (1 of 1956) shall not apply to co-operative societies.

6. *Prohibition of the use of the word "co-operative".*—No person other than a co-operative society shall trade or carry on business under any name

or title of which the word "co-operative" or its equivalent in any language is a part :

Provided that nothing in this section shall apply to the use by any person or by his successor-in-interest of any name or title under which he lawfully traded or carried on business at the commencement of this Act.

7. *Exemption of co-operative societies from the provisions of the Act.*—The State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification, for reasons to be recorded,—

(a) exempt any co-operative society or class of co-operative societies from the application of any of the provisions of this Act or uthtrees, or

(b) direct that any of the provisions of this Act or the rules shall apply to any co-operative society or class of co-operative societies to such extent as may be specified in the notification :

Provided that no notification to the prejudice of any co-operative society or class of co-operative societies shall be issued without an opportunity given to it to represent its case.

8. *Officers of co-operative societies to be public servants.*—Every officer of a co-operative society shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

CHAPTER II

Registration

9. *Appointment of Registrar and of persons to assist him.*—The State Government may appoint a person to be the Registrar of Co-operative Societies for West Bengal and such number of other persons to assist him as it may deem fit.

10. *Conferment of powers and duties of Registrar on other persons.*—Subject to the rules, the State Government may, by general or special order in this behalf, confer all or any of the powers, or impose all or any of the duties, of the Registrar under this Act, other than those specified in the First Schedule, on any person appointed under section 9 to assist the Registrar.

11. *Co-operative societies which may be registered.*—(1) Subject to the provisions of this Act and the rules, a co-operative society established with the object of promoting the common interests of its members in accordance with co-operative principles and facilitating the operation of such co-operative society (including a co-operative society formed by division of an existing co-operative society or by amalgamation of two or more existing co-operative societies) may be registered under this Act with limited liability :

Provided that a co-operative society with unlimited liability functioning immediately before the commencement of this Act may continue to function as such or may convert itself into a co-operative society with limited liability within such time and in such manner as may be prescribed :

Provided further that a co-operative society registered under this Act may, subject to the provisions of this Act and the rules, by amendment of its by-laws, change the form, or the extent, of its liability.

(2) The word "Limited" shall be the last word in the name of a co-operative society registered under this Act.

12. *Bar to registration.*—(1) No co-operative society the by-laws of which permit admission as its member of a person carrying on transaction

or business of the same kind or nature as carried on by it shall be registered under this Act.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1),—

(a) no co-operative credit society shall be registered if the by-laws thereof do not specifically debar admission as its member of a person who is a money-lender by profession,

(b) no consumers' co-operative society shall be registered if the by-laws thereof do not specifically debar admission as its member of a person who is a grocer by profession, and

(c) no industrial co-operative society shall be registered if the by-laws thereof do not specifically debar admission as its member of a person who is carrying on, on his own account, or has any interest in, any business of the kind carried on by it :

Provided that the registration of an industrial co-operative society shall not be refused merely on the ground that its by laws provide for admission as its member of a person who is an ordinary artisan or a small entrepreneur carrying on business of the same kind carried on by it.

(3) No co-operative society established or organised for the promotion of the economic interests of any particular community, class or group of people exclusively through any specific activity shall be registered if the by-laws thereof permit admission as its members of persons other than those to be directly benefited by such activity.

(4) No co-operative society established by, tribals or farmers or females exclusively for their benefit shall admit as its member a person who is not a tribal or farmer or female, as the case may be

13. Application for registration.—(1) An application for registration of a co-operative society and its by-laws shall be made to the Registrar in the prescribed manner with one copy to the District Co-operative Union in the case of a co-operative society within a district and to the State Co-operative Union in the case of a State level society. The application shall be accompanied by two copies of the proposed by-laws of the co-operative society. The persons by whom or on whose behalf the application is made shall furnish such information in regard to the co-operative society as the Registrar may require.

(2) Where an application for registration of a co-operative society and its by-laws is made by individuals, the number of applicants shall not be less than ten, each of whom shall belong to a different family.

Explanation.—For the purpose of this sub-section, a family shall be deemed to consist of husband, wife, minor sons and daughters, dependent widow of a predeceased son, minor sons and daughters of a dependent widow of a predeceased son and husband's dependent parents.

(3) The State Government may prescribe the extent to which a co-operative society shall limit the number of its members.

(4) (a) The Registrar shall dispose of an application for registration of a co-operative society (other than a co-operative housing society or an industrial co-operative society not entirely composed of rural artisans) and its by-laws within three months from the date of its receipt by him.

(b) An application for registration of a co-operative housing society or an industrial co-operative society not entirely composed of rural artisans and its by-laws shall be disposed of by the Registrar within four months

from the date of its receipt by him.

(5) If the registration of a co-operative society and its by-laws is refused or the application for such registration is not disposed of by the Registrar within the period mentioned in clause (a) or clause (b), as the case may be, of sub-section (4), the Registrar shall transfer the application to the Co-operative Registration Council referred to in sub-section (7) with his comments, and shall inform, in writing, the applicant or the chief promoter of the application of such transfer, within one month of expiry of the aforesaid period. The Registration Council shall decide the matter within two months from the date of receipt of the application.

(6) If the applicant or the chief promoter of the application does not receive any information from the Registrar under sub-section (5) within the period mentioned in that sub-section, he shall have the right to appeal to the Co-operative Registration Council within one month from the date of expiry of the said period.

(7) (a) The State Government shall constitute a council to be called the Co-operative Registration Council consisting of a Chairman and two other members. The member of the principal co-operative tribunal referred to in section 135 shall be the Chairman of the Co-operative Registration Council. Of the two other members, one shall be nominated by the State Government and the other shall be nominated by the State Co-operative Union.

(b) The Co-operative Registration Council shall have jurisdiction throughout West Bengal and shall function in such manner as may be prescribed,

14. *Registrar to decide certain questions*—(1) The Registrar shall decide all questions as to whether an application made under sub-section (1) of section 13 complies with the provisions of this Act and the rules and whether the co-operative society is eligible to be registered under sub-section (1) of section 11.

(2) If the Registrar requires any particulars or papers for deciding the questions referred to in sub-section (1), he shall forthwith call for such particulars or papers from the applicant or the chief promoter of the application.

15. *Registration*.—(1) If the Registrar is satisfied that an application for registration of a co-operative society and its by-laws is in accordance with the provisions of this Act and the rules, he shall, unless for reasons to be recorded in writing he thinks fit to refuse, register the co-operative society and its by-laws within the period mentioned in sub-section (4) of section 13.

(2) If the Registrar fails to dispose of the application for registration of a co-operative society and its by-laws or if registration thereof is refused by him, he shall transfer the application to the Registration Council as required under sub-section (5) of section 13.

16. *Evidence of registration*.—When a co-operative society and its by-laws have been registered under sub-section (1) of section 15, the Registrar shall issue to the co-operative society a certificate, attaching thereto a copy of the by-laws, in the prescribed form, and such certificate shall be the conclusive evidence that the co-operative society and its by-laws have been duly registered under this Act, unless it is proved that the registration

of the co-operative society has been cancelled or its by-laws amended in accordance with the provisions of section 17 or section 18.

17. *Amendment of by-laws.*—(1) A co-operative society may make by-laws for carrying out its functions under this Act or the rules and such by-laws shall not be valid unless they have been registered under sub-section (1) of section 15.

(2) A co-operative society may amend its by-laws from time to time but no such amendment shall be valid unless it is registered under sub-section (3) of this section.

(3) Every proposal for amendment of by-laws of a co-operative society shall be forwarded to the Registrar. If the Registrar is satisfied that the proposed amendment is not inconsistent with the provisions of this Act or the rules, he shall, unless for reasons to be recorded in writing he thinks fit to refuse, register the amendment within three months or, if it relates to a co-operative housing society or an industrial co-operative society not entirely composed of rural artisans, within four months from the date of its receipt and forward a copy thereof together with a certificate in the prescribed form, and such certificate shall be the conclusive evidence that the amendment has been duly registered under this Act :

Provided that the Registrar shall not refuse to register any amendment of by-laws without giving the co-operative society an opportunity of making representation in the prescribed manner.

(4) If the Registrar refuses to register any amendment of by-laws he shall communicate the order of refusal with reasons therefore within three months or, in the case of a co-operative housing society or an industrial co-operative society not entirely composed of rural artisans, within four months from the date of receipt of the amendment to the co-operative society in the prescribed manner.

(5) If any amendment of by-law proposed by a co-operative society is refused by the Registrar under sub-section (4), the co-operative society may make an appeal against the decision of the Registrar to the Co-operative Registration Council, within one month from the date of the decision of the Registrar. The decision of the Registration Council concerned shall be final in this regard.

18. *Power of Registrar to direct amendment of by-laws.*—(1) If, of his own motion or on the application of the financing bank concerned, it appears to the Registrar that any amendment of the by-laws of a co-operative society is necessary or desirable in the interest of such co-operative society, the Registrar or any person authorised by him in this behalf may by order direct the co-operative society to call a special general meeting in the prescribed manner to make the amendment and apply for registration thereof within such time as he may specify in the order. If the co-operative society fails to make the amendment and apply for registration thereof within the time specified in the order, the Registrar shall call a special general meeting at the cost of the co-operative society for consideration of his proposal for amendment of its by-laws.

(2) If the co-operative society fails to make the amendment and apply for registration thereof within the specified time, the Registrar shall after consulting the financing bank of which the co-operative society is a member or a debtor, as the case may be, make and register the amendment.

and forward a copy thereof to the co-operative society together with a certificate which shall be the conclusive evidence that the amendment has been registered and, subject to the decision of appeal, if any, such amendment shall be binding upon the co-operative society and its members.

CHAPTER III

Transfer of assets and liabilities, and division and amalgamation of co-operative societies.

19. *Transfer of assets and liabilities, and division and amalgamations of co-operative societies.*—(1) Any co-operative society may, by a resolution passed by a majority of not less than two-thirds of the members thereof present and voting at a general or special general meeting,—

(a) transfer, wholly or in part, its assets and liabilities to any other co-operative society, or

(b) divide itself to form two or more new co-operative societies.

(2) Any two or more co-operative societies may, by resolution passed by not less than two-thirds of the members present and voting at a general or special general meeting of each such co-operative society, amalgamate themselves and form a new co-operative society together with the assets and liabilities of the co-operative societies forming such new co-operative society.

(3) A resolution passed under sub-section (1) or sub-section (2) shall contain all particulars relating to the registration, transfer of assets and liabilities, and division or amalgamation, as the case may be, of the concerned co-operative societies.

(4) When a resolution has been passed under sub-section (1) or sub-section (2), the co-operative society or the co-operative societies concerned shall give notice thereof in writing to all its or their members and creditors, within thirty days from the date of the general or special general meeting, as the case may be, at which the resolution is passed and notwithstanding anything contained in any by-law or contract, any member of any such co-operative society shall have option to withdraw his share or deposit or any creditor of any such co-operative society shall have option to demand repayment of his loan by such co-operative society within one month from the date of service of such notice. Such resolution shall not take effect until all the claims of the members and the creditors of any such co-operative society who exercise option under this sub-section have been met in full.

(5) On receipt of an application for registration of a new co-operative society formed under sub-section (1) or sub-section (2), the Registrar shall satisfy himself that the resolution is effective under sub-section (4) and the application and the by-laws of the co-operative society are in accordance with the provisions of this Act and the rules, and shall, unless for reasons to be recorded in writing he thinks fit to refuse, register the new co-operative society and the by-laws under sub-section (1) of section 15 and issue a certificate under section 16.

(6) After a new co-operative society formed by amalgamation of two or more co-operative societies or by division of a co-operative society has been registered, the registration of the co-operative societies which are amalgamated or the co-operative society which is divided shall stand cancelled and such co-operative societies shall be deemed to have been dissolved and shall cease to exist.

(7) When the assets and liabilities of a co-operative society are transferred to any other co-operative society or societies the transferor society shall be deemed to have been dissolved and shall cease to exist.

(8) Notwithstanding anything to the contrary contained in any other law for the time being in force,—

(a) the registration of new co-operative societies formed by division of a co-operative society shall be a sufficient conveyance to vest the assets and liabilities of the co-operative society, which is divided, in such new co-operative societies in accordance with the resolution passed under sub-section (1);

(b) when a resolution is passed by a co-operative society under sub-section (2), the resolution shall, if accepted by the transferee society by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general or special general meeting of such society, be a sufficient conveyance to vest the assets and liabilities of the transferor societies in the transferee society. Copies of such resolutions of the transferor societies and the transferee society shall be sent to the Registrar for record; and

(c) the registration of a new co-operative society formed by amalgamation shall be a sufficient conveyance to vest the assets and liabilities of the co-operative societies, which are amalgamated, in the new co-operative society in accordance with the resolution passed under sub-section (2).

20. Powers of Registrar to order amalgamation or reorganisation of co-operative societies.—(1) If the Registrar is satisfied after due consultation with the respective apex society in the manner prescribed that it is essential in the public interest or in the interest of co-operative movement or for the purpose of securing the proper management of any co-operative society that any two or more co-operative societies should be amalgamated or reorganised, then notwithstanding anything contained in section 19, the Registrar may by a notice direct the said co-operative societies, stating reasons thereof, to cause such amalgamation or reorganisation, as the case may be, with such constitution, property, rights, interest, authority, liabilities, duties and obligations as may be specified in the notice within three months of the date of the notice. If the direction is not acted upon or complied with within the said period, the Registrar shall cause amalgamation or reorganisation, as the case may be, of the concerned co-operative societies by an order in writing and communicate the order to all concerned and shall issue registration certificate or certificates under section 16 in respect of the co-operative society or societies formed by amalgamation or reorganisation, as the case may be, and the by-laws thereof framed by him:

Provided that notwithstanding anything to the contrary contained in any other law in force for the time being, no order for amalgamation of any co-operative bank shall be made without prior consultation with the Reserve Bank of India:

Provided further that the Registrar shall not order amalgamation of a co-operative society which has a total accumulated loss exceeding its assets with any other co-operative society earning profit:

(2) No order shall be made under sub-section (1) unless—

(a) a draft of the order has been sent to each of the co-operative societies in the prescribed manner inviting suggestions or objections, if any, within such period, not being less than three months, as the Registrar may fix in this behalf; and

(b) the Registrar has considered the suggestions or objections, if any, received from the co-operative societies or from any member, class of creditors thereof, and made such modification in the draft as he may deem fit.

(3) An order made under sub-section (1) may contain such incidental, consequential or supplemental provisions as may, in the opinion of the Registrar, be necessary for the purpose of the amalgamation or reorganisation, as the case may be.

(4) Every member or creditor of any of the co-operative societies to be amalgamated or reorganised, who has filed objections under clause (a) of sub-section (2), shall be entitled to receive after the order has been made under sub-section (1) his share or deposit, if he is a member, or the amount in satisfaction of his claim, if he is a creditor.

(5) An order made under sub-section (1) shall take effect,—

(a) when no appeal from such order is preferred under section 136, on the expiry of the time allowed for preferring an appeal, or

(b) where an appeal from such order is preferred under section 136, upon rejection of the appeal by the appellate authority.

(6) Notwithstanding anything to the contrary contained in any other law for the time being in force, an order made under sub-section (1) for amalgamation shall, upon taking effect under sub-section (5), be a sufficient conveyance to vest the assets and liabilities as per schedule of assets and liabilities specified in the order and the co-operative societies which are amalgamated or reorganised shall be deemed to have been dissolved and shall cease to exist.

21. *Amalgamation of any central co-operative bank with any other central co-operative bank or with the State Co-operative Bank.*—(1) If the State Government is of opinion that—

(a) in the public interest, or

(b) in the interest of the depositors, or

(c) in order to secure proper management of any central co-operative bank, or

(d) in the interest of the co-operative movement in the State as a whole, or

(e) in the interest of the co-operative banking system in the State as a whole, or

(f) to make co-operative credit adequately available to the primary co-operative credit societies of any particular area in the State Co-operative Bank,

it is necessary so to do, the State Government may, by an order published in the Official Gazette stating reasons thereof, make a scheme for the amalgamation of any central co-operative bank (in this section hereinafter referred to as the transferor bank) with any other central co-operative bank or the State Co-operative Bank (in this section hereinafter referred to as the transferee bank).

(2) A scheme referred to in sub-section (1) may provide for all or any of the following matters, namely :—

(a) the transfer of the business, properties (movable and immovable), assets (including cash balances and reserve funds), rights, privileges, liabilities, debts and obligations of the transferor bank to the transferee bank, on such terms and conditions as may be specified in the said scheme ;

(b) the reduction of the interest or rights, which the members, depositors and other creditors have in or against the transferor bank before its amalgamation, to such extent as the State Government considers necessary in the public interest or in the interest of the members, depositors and other creditors of the transferor bank or for the maintenance of the business of such bank, having due regard to the proportion of the assets of the transferor bank to its liabilities ;

(c) the payment in cash or otherwise to the depositors and other creditors in full satisfaction of their claims—

(i) in respect of their interest or rights in or against the transferor bank before or after its amalgamation, or

(ii) where the interest or rights as aforesaid in or against the transferor bank has or have been reduced under clause (b), in respect of such interest or rights as so reduced ;

(d) (i) the allotment of shares in the transferee bank to the members of the transferor bank against the shares held by them in the transferor bank before the amalgamation, whether their interest in such shares has been reduced under clause (b) or not, or

(ii) where the members of the transferor bank elect to receive payment in cash and not in shares of the transferee bank, or where it is not possible to allot shares in the transferee bank to such members against the shares held by them in the transferor bank, the payment to such members in cash in full satisfaction of their claims in respect of their interest in the shares of the transferor bank or, where such interest has been reduced under clause (b), in respect of their interest in the shares as so reduced ;

Provided that the aforesaid scheme shall secure—

(i) that allotment of shares or payment in cash in favour of the members of the transferor bank under clause (d) shall not be made until all the depositors and creditors of the transferor bank have been paid under sub-clause (i), or, as the case may be, under sub-clause (ii); of clause (c), and

(ii) that such allotment of share or payment in cash in favour of the members of the transferor bank shall be made only out of the surplus of the assets of the transferor bank, if any, that may be left after payment to the depositors and creditors as indicated in sub-clause (i) ;

(e) the continuance of the services of employees of the transferor bank in the transferee bank on terms and conditions of service not being less advantageous than those to which they were entitled immediately before the amalgamation :

Provided that the transferee bank may not by an order in writing allow any employee of the transferor bank to continue in the services of the bank if, in the opinion of the transferee bank, the continuance of such employee in its service would be detrimental to its interest, and thereupon the services of such employee shall stand terminated on and from the date of such order, and the transferee bank shall, within three months of the date of the aforesaid order, make payment to such employee such compen-

sation as such employee may be entitled under any law relating to the industrial disputes in force in the State and such pension, gratuity, provident fund and other retirement benefits as are ordinarily admissible to him under the rules of the transferor bank in force immediately before the amalgamation.

(3) (a) An order under sub-section (1) shall not be made unless a copy of the proposed order including the scheme is sent to the transferor bank and the transferee bank calling upon such banks to invite objections or suggestions from the members, creditors and depositors thereof and to submit such objections and suggestions together with their own suggestions and objections, if any, to the State Government within six weeks from the date of receipt of the copy of proposed order by such banks.

(b) The State Government shall consider the suggestions and objections which may be received under clause (a), make such modifications in the proposed order including the scheme as it thinks just and fit and finalise the proposed order including the scheme in consultation with the Reserve Bank of India.

(4) An order under sub-section (1) may contain such incidental, consequential or supplemental provisions as the State Government may consider necessary to give effect to the proposed amalgamation and shall have effect on and from such date as may be specified in the order.

(5) On the coming into operation of any scheme referred to in sub-section (1), the provisions thereof shall be binding on the transferor bank, the transferee bank and all the members, depositors, creditors and employees of both such banks and on any person having any right or liability in relation to such banks.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any other law or any agreement, award or other instrument for the time being in force.

(7) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), or the Registration Act, 1908 (16 of 1908), an order making schemes under sub-section (1) shall be sufficient conveyance, in accordance with the provisions of this section, to transfer the assets and liabilities of the transferor bank to the transferee bank.

(8) When by virtue of a scheme under sub-section (1) the assets and liabilities of the transferor bank have been transferred to the transferee bank shall cease to exist and shall be deemed to have been dissolved.

(9) Notwithstanding anything contained in any other law for the time being in force, an order under sub-section (1) shall not be called in question in any Court.

22. Change of name and its effects.—(1) A co-operative society may, with the previous approval of the Registrar, by a resolution passed at a general meeting, change its name.

(2) A co-operative society shall communicate its new name to the Registrar and the Registrar shall enter the new name in the relevant register and shall make necessary corrections in the certificate of registration issued under section 16.

(3) The change of name of a co-operative society under sub-section (1) shall not affect any right or obligation of such co-operative society or

of any member or past member (including a deceased member) thereof, and any legal proceeding pending before any authority, tribunal or Court by or against such co-operative society may be continued in its new name.

CHAPTER IV

Status and management of co-operative societies.

23. *Co-operative society to be body corporate*.—A registered co-operative society shall be a body corporate by its registered name with perpetual succession and a common seal, and with power to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it is constituted.

24. *Final authority of co-operative society*.—(1) Subject to the provision of this Act and the rules, the final authority of a co-operative society shall vest in the general body of its members in general meeting :

Provided that in such circumstances as may be prescribed, the final authority may vest in the delegates of such members elected in the prescribed manner and assembled in general meeting.

(2) The general meeting of a co-operative society shall be summoned, and the authority of the general body of members thereof shall be exercised, in such manner as may be prescribed.

25. *Annual general meeting*.—(1) Every co-operative society shall hold at least once in every co-operative year a general meeting to be called the annual general meeting for—

(a) election, if any, in the prescribed manner, of the directors of the board :

Provided that if in a general meeting in which the election cannot be held owing to an order of any court or for any other reason or if the directors of the board elected in such general meeting cannot function owing to an order of any court, the Registrar may constitute a board of directors from amongst the members of the co-operative society in conformity with sub-section (1) and sub-section (2) of section 27 and such board shall function till the directors of the board elected under this section assume charge :

(b) consideration and record of the proceedings of the last annual general meeting ;

(c) approval of the budget and the programme of activities of the co-operative society for the following co-operative year prepared by the board ;

(d) consideration of the audit report referred to in section 91 ;

(e) consideration of any report of inspection or enquiry made in accordance with the provisions of this Act or the rules ;

(f) (i) consideration of matters relating to loans and advance made to the directors of the board and their relatives and actions to be taken for recovery thereof ;

(ii) approval of appointments, if any, of the relatives of the directors of the board ;

(g) distribution of net profits, if any ;

(h) consideration of any other matter which may be brought at the meeting in accordance with the rules and the by-laws.

(2) If the audit report for the immediately preceding co-operative

year is not ready before the date fixed for the annual general meeting, the co-operative society shall hold a special general meeting for considering the said audit report within three months from the date of receipt thereof or shall consider it in the next annual general meeting, if such meeting is due within the said period of three months.

(3) On the failure of the board to call the general meeting within fifteen months of the commencement of a co-operative year, the Registrar shall call, or authorise any of his officers to call, a general meeting within a period of three months from the date of expiry of the aforesaid fifteen months without prejudice to the penal measures that may be taken under this Act against the directors of the board for not holding the general meeting within such period as required under sub-section (1) and sub-section (2).

(4) Notwithstanding anything contained in sub-section (1), sub-section (2) and sub-section (3), the State Government may, in special circumstances, permit the Registrar to call the general meeting even after the expiry of eighteen months from the date of last preceding meeting held under sub-section (1).

26. *Special general meeting.*—(1) A special general meeting of any co-operative society may be called at any time by a majority of the directors of the board—

(a) on the requisition in writing of one-third of the members of the co-operative society or the delegates, where there are delegates; or

(b) at the direction of the Registrar;

(2) The special general meeting referred to in sub-section (1) shall be called within two months from the date of the requisition or the direction as the case may be.

(3) The Registrar or any person authorised by him in this behalf may, by an order in writing, call at any time a special general meeting of any co-operative society and shall call such a meeting upon refusal or failure by a majority of directors of board to call a special general meeting under sub-section (1).

(4) All expenditure incurred in connection with a special general meeting called under sub-section (3) shall be met out of the funds of the co-operative society or by such director or directors of the board as are in the opinion of the Registrar responsible for the refusal or failure to call the special general meeting under sub-section (1).

(5) When the majority of the directors of a board refuses or fails without reasonable cause to call a special general meeting under sub-section (1), the Registrar may, after giving all the directors an opportunity of being heard, by an order in writing, declare such of the director as are found responsible for such refusal or failure to be disqualified for continuing in office and for being directors of the board for such period not exceeding three years, as may be specified in the order.

27. *Management of co-operative societies.*—(1) There shall be a board for every co-operative society to manage its affairs and the board shall consist of such number of directors as may be specified in the by-laws of the co-operative society. The directors shall be elected by the members of the co-operative society in a general meeting:

Provided that the number of directors to be elected by the members of a co-operative society shall not be less than six or more than fifteen, but

where any co-operative society has less than twelve members, the number of such directors shall not be less than three or more than five.

(2) The State Government or any authority specified by it in this behalf may nominate on the board one or more persons under section 33.

(3) The employees of a co-operative society having not less than ten employees may elect from amongst themselves one person on the board.

(4) Where a co-operative society has a Chief Executive paid out of the funds of the co-operative society, such Chief Executive shall be an *ex officio* director on the board.

(5) A Gram Panchayat, constituted under the West Bengal Panchayat Act, 1973 (West Ben. Act I of 1974), may nominate one of its members on the board of a primary co-operative agricultural society doing business within the jurisdiction of that Gram Panchayat. A Panchayat Samiti constituted under the said Act may nominate one of its members on the board of a primary co-operative agricultural credit society doing business in the areas covered by more than one Gram Panchayat within the jurisdiction of the concerned Panchayat Samiti.

(6) The directors referred to in sub-section (3), (4) and (5) shall have no right to vote in any meeting of the board and shall not hold any office in the board but shall have the right to record their views in the minute book.

(7) No act or proceeding of a board shall be deemed to be invalid merely by reason of the absence of any nomination under sub-section (2) or sub-section (5) or any election under sub-section (3) on account of such nomination not being made or such election not being held for any reason whatsoever.

(8) A director elected under sub-section (1) or sub-section (3) or nominated under sub-section (5) shall hold office for a period of three years from the date of his election or nomination, as the case may be :

Provided that a director elected under sub-section (3) or nominated under sub-section (5) shall not be eligible for re-election or re-nomination, as the case may be, within a period of three years from the date of expiry of his terms of office,

(9) No designated officer who has been or but for his voluntary resignation could have been such designated officer for two consecutive terms or seventy-two months, whichever is less, shall be eligible for re-election, appointment, co-option or nomination, as an office-bearer until after the expiry of three years from the date of occurrence of the disqualification or of retirement:

Provided that nothing in this sub-section shall apply to a director nominated by the State Government under sub-section (2).

Explanation.—“Designated Officer” shall mean an officer of a co-operative society, by whatever name called,

(10) No member of a co-operative society shall be eligible for being elected on the board, if—

(a) he has been adjudged by a competent Court to be insolvent or of unsound mind ;

(b) he has been convicted by a Court of any offence involving moral turpitude and sentenced to fine or imprisonment or both;

(c) he holds any office of profit in the co-operative society :

Provided that a member of an industrial co-operative society composed

of artisans or workmen or of a transport co-operative society composed of workers or of a labour co-operative society composed of persons who live on manual labour (skilled or unskilled) or of an engineers' co-operative society or of a co-operative society established by tribals in receipt of salaries or wages from such co-operative society shall be eligible for being elected on the board ;

(d) he has any interest in any business of the kind carried on by the co-operative society ;

(e) (i) he is an individual, not representing any co-operative society, and is in default of payment of loans or price of goods received by him on credit from the co-operative society on the date of filing nomination (in the case of a co-operative society where such nomination is required to be filed) or on the date of election (in the case of a co-operative society where nomination is not required to be filed) ; or

(ii) he is an individual representing a co-operative society which is in default of payment of more than forty per cent of loans or price of goods received by it on credit from the co-operative society in relation to the board to which the election relates on the date of filing nomination or on the date of election (without nomination, as the case may be ;

(f) he has any direct or indirect interest in any agreement or contract to which the co-operative society is a party ;

(g) he receives emoluments or allowances (other than travelling allowances or sitting fees) or honorarium without the approval of the members of co-operative society at a general meeting and in excess of the prescribed limit or rate ;

(h) he is disqualified under sub-section (5) of section 26.

(11) A director shall not receive any emoluments or allowances (other than travelling allowances and sitting fees) or honorarium without the approval of the members of the co-operative society at a general meeting :

Provided that such emoluments or allowances or honorarium shall not exceed such limit or rate as may be prescribed.

(12) No person shall at any time as a member or as a delegate of any co-operative society hold office as a director of the board of more than—

(a) four primary societies ;

(b) one central society ; and

(c) one apex society ;

Provided that a member of a district co-operative union or the State Co-operative Union may hold office as a director of the board of not more than four primary societies, one central society and one apex society excluding the concerned district co-operative society or the State Co-operative Union and that a director of the board of a central society or an apex society shall be elected as a director of the board of the State Co-operative Union or a district co-operative union :

Provided further that the provision of this sub-section shall not apply to a director referred to in sub-sections (2), (3), (4) and (5).

(13) After the commencement of this Act, any person holding the office of a director of a board in contravention of sub-section (12) shall, within a period of two months from such commencement, resign his office

as such in respect of such number of societies specified in sub-section (12) as may be necessary, failing which he shall cease to be a director of the board of all such societies on the expiry of the aforesaid period.

28. Deputation of Government officers to manage the affairs of co-operative society.—(1) The State Government may, on the application of a co-operative society supported by a resolution of the board or the general body of its members, depute on such conditions as may be prescribed, Government officer to the service of the co-operative society to manage its affairs. Such Government officer shall exercise such powers and perform such duties as may be prescribed.

Provided that if there is a condition by the financing agency that the State Government should depute a Government officer to manage the affairs of the co-operative society for which assistance from that agency is given or the State Government has given financial assistance directly to the co-operative society, the State Government shall, on the recommendation of the Registrar, appoint such officer. Such Government officer shall exercise such powers as may be prescribed.

(2) The Registrar may, on the application of a co-operative society supported by a resolution of the board or the general body of the members of the co-operative society, depute on such conditions as may be prescribed a Government officer in respect of whom he is the appointing authority or recommend to the State Government for deputation of a Government officer to the service of the co-operative society to manage its affairs. The Government officer deputed by the Registrar shall exercise such powers and perform such duties as may be prescribed.

29. Dissolution and reconstitution of board.—(1) The Registrar may, if he is satisfied for reasons to be recorded in writing that the board of any co-operative society is mismanaging its affairs, under clause (b) of sub-section (1) of section 26, by order direct the board to call a special general meeting of the co-operative society to dissolve the board and reconstitute it within such period as may be specified in the order.

Explanation.—For the purpose of this sub-section, the expression “mismanaging its affairs” shall include any act of wilfully disobeying or failing to comply with any lawful order or direction issued by the State Government or the Registrar.

(2) In any direction under sub-section (1) the Registrar may, for reasons, to be recorded in writing, order that all or any of the members of the board to be dissolved shall be disqualified for election to the board or for appointment as an officer of the co-operative society for such period, not exceeding three years, as may be specified in the order.

(3) If the board is not dissolved and re-constituted in such manner and within such period as provided in the order under sub-section (1), the Registrar may by order in writing stating reason and after giving the board an opportunity of stating its objection, if any, dissolve the board, the directors of which shall forthwith vacate their offices and the Registrar may appoint a committee with the nominees, if any, of the State Government and with such members of the co-operative society as he thinks fit to manage the affairs of the co-operative society for a period not exceeding one year at a time and to arrange for the reconstitution of the board by such date as may be specified in the order.

30. *Dissolution of board and appointment of administrator* —(1) If, in the opinion of the Registrar,—

(a) any board

(i) has persistently made defaults, or has been grossly negligent, in the performance of its duties under this Act or the rules or the by-laws, or

(ii) has committed any act prejudicial to the interest of the concerned co-operative society or any other co-operative society, or

(iii) has wilfully disobeyed or wilfully failed to comply with any lawful order or direction of the State Government or the Registrar; or

(b) the affairs and business of any co-operative society have due to persistent default or negligence in the performance of duties by its board or a section thereof or otherwise come to a standstill,

the Registrar may, after service of a notice upon the board and giving it an opportunity of being heard, by order in writing stating reasons thereof, dissolve the board, the directors of which shall forthwith vacate their offices and the Registrar shall appoint one or more administrators to manage the affairs of the co-operative society for such period, not exceeding one year at a time, as may be specified in the order and may also by an order in writing extend such period so, however, that the total period shall not exceed three years.

(2) If, on receipt of a report from the Registrar, or of its own motion the State Government is of opinion that, in view of one or more circumstances referred to in sub-section (1), immediate dissolution of the board of any co-operative society is essential in the interest of that co-operative society or the co-operative movement in general, the State Government may without giving such board any notice, by notification, giving reasons thereof dissolve such board, the directors of which shall forthwith vacate their office and the State Government shall appoint one or more administrators to manage the affairs of that co-operative society for such period, not exceeding two years at a time, as may be specified in the notification and may also by notification extend the period so, however, that the total period shall not exceed three years.

Provided that the State Government shall not take any step towards immediate dissolution of the board of directors of the State Co-operative Bank or the central co-operative land development bank or any central co-operative bank or such other co-operative bank as comes within the provision of Part V of the Banking Regulation Act, 1949 (10 of 1949) without prior consultation with the Reserve Bank of India.

(3) The Registrar shall, after service of a notice under sub-section (1), by order, depute a Government officer in respect of whom he is the appointing authority to the service of a co-operative society to manage its affairs till an administrator or administrators is or are appointed by him under sub-section (1) and such Government officer shall exercise such powers and perform such duties as the Registrar may specify in the order, and the co-operative society shall allow the said Government officer to exercise his powers and perform his duties accordingly.

(4) During the tenure of office of the administrator or administrators appointed under sub-section (1) or sub-section (2),

(a) all properties of co-operative society shall vest in the Registrar; and

(b) subject to the control of the Registrar and notwithstanding the

preferring of any appeal under section 135, the administrator or administrators shall exercise all the powers and perform all the duties which may be exercised or performed by the board or any officer of the co-operative society under this Act or the rules or the by-laws.

(5) If, during the tenure of office of the administrator or administrators appointed under sub-section (1) or sub-section (2), it appears to the Registrar or the State Government, as the case may be, that it is no longer necessary to manage the affairs of the co-operative society by the administrator or administrators, the Registrar or the State Government, as the case may be by order in writing stating reasons therefor, direct the administrator or administrators to arrange, notwithstanding the provisions of section 25, for the reconstitution of the board of the said co-operative society in accordance with the rules and its by-laws and immediately on the reconstitution of the board of the said co-operative society in accordance with the rules and its by-laws and immediately on the reconstitution of the board the administrator or administrators shall make over the management of the co-operative society to the board and shall cease to function and a board reconstituted under this section shall be deemed to be validly reconstituted under section 25 for the purposes of this Act.

(6) The administrator or administrators appointed under sub-section (1) or sub-section (2) shall, before the expiry of his or their tenure of office, arrange, notwithstanding the provisions of section 25, for the reconstitution of the board in accordance with the rules and the by-laws of the co-operative society and shall hold office until the board so reconstituted takes over charge or the appointment of the administrator or administrators is cancelled, whichever is earlier, and a board reconstituted under this section shall be deemed to have been validly reconstituted under section 25 for the purposes of this Act.

(7) The Registrar shall by order fix the remuneration of the administrator or administrators appointed under sub-section (1) or sub-section (2) and such remuneration shall be paid out of the funds of the co-operative society.

(8) Any action taken by the Registrar under sub-section (1) or by the State Government under sub-section (2) shall not be called in question in any court.

31. *Dissolution of the board in certain cases and appointment of special officer.*—Notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for time being in force,—

(a) the board of directors of any of the co-operative societies mentioned in the Fifth Schedule shall, if the election of its directors has not been held within a period of thirty-six months from the date of their election under sub-section (1) of section 25, stand dissolved on and from the date immediately following the date of expiry of the said period ;

(b) with effect from the date of dissolution of the board under clause (a), the directors thereof shall be deemed to have vacated their offices ;

(c) upon the dissolution of the board under clause (a) the Registrar shall, by notification, appoint a special officer for managing the affairs of the co-operative society and for making arrangements for reconstitution of the board in accordance with the provisions of this Act, the rules and the by-laws of the co-operative society within a period not exceeding one year

from the date of dissolution and, notwithstanding the provisions of section 25, a board reconstituted under this section shall be deemed to have been validly reconstituted under section 25 for the purposes of this Act :

Provided that until a special officer is appointed under this clause, the highest paid executive of the co-operative society, by whatever designation called, shall manage the affairs of the co-operative society.

Explanation.—If there is any dispute as to who is the highest paid executive of the co-operative society, the Registrar's decision thereon shall be final ;

(d) with effect from the date of dissolution of the board under clause (a)—

(i) all properties of the co-operative society shall vest in the Registrar and shall remain vested till a new board assumes office ; and

(ii) subject to the control and direction of the Registrar, the highest paid executive of the co-operative society or the special officer, as the case may be, shall exercise all the powers and perform all the duties which may, under this Act or the rules or the by-laws, be exercised or performed by the board or any officer of the co-operative society ;

(e) where a special officer has been appointed under clause (c), the Registrar may, by order, fix the remuneration of the special officer and the remuneration fixed shall be paid out of the funds of the co-operative society ;

(f) the special officer appointed under clause (c) shall hold office until the board is reconstituted.

32. *Summoning of meetings of co-operative society and rescinding or suspending resolution thereof.*—(1) Notwithstanding anything contained in the by-laws of a co-operative society, the Registrar, or any person authorised by him in writing in this behalf, may, at any time, direct the Chairman of a board or the Chief Executive of a co-operative society to summon a meeting of the board within such time as may be specified in the direction. If the Chairman or the Chief Executive, as the case may be, fails to summon the meeting of the board within the specified time, the Registrar or the person authorised by him shall summon the meeting of the board and such meeting shall be deemed to be a meeting summoned in accordance with the by-laws of the co-operative society and shall be competent to transact such business (which may be transacted at a meeting of the board) as may be specifically mentioned in the summons.

(2) The State Government may, by order for reasons to be recorded in writing, rescind or suspend for a period specified in the order, any proceeding or resolution of any general meeting of a co-operative society or of any meeting of the board thereof which it considers to be not in conformity with the provisions of this Act or the rules or with any order validly issued by the State Government or the Registrar, and may do all things necessary to secure such conformity, or may rescind any proceeding or resolution which it considers likely to affect adversely the interest of any co-operative society or members thereof or the co-operative movement in general.

(3) The Registrar may, after giving the co-operative society an opportunity of being heard, by order for reasons to be recorded in writing suspend the execution of any resolution or order of the board or prohibit the doing of any act if, in his opinion, such resolution, order or the doing

of any act, as the case may be, is in excess of the powers conferred by this Act, or the execution of such resolution or order or the doing of such act is likely to prejudice the material interest of the co-operative society or the members thereof or of the co-operative movement in general.

(4) The Registrar shall while making an order under sub-section (3) simultaneously send a copy of his order to the Government.

(5) On receipt of a copy of the order under sub-section (4), the State Government shall by order rescind, modify or confirm the order of the Registrar under sub-section (3) and shall send a copy of such order to the co-operative society which shall be bound by such order.

33. *Nomination by the State Government on the board.*—Where the State Government has—

(a) subscribed to the share capital of a co-operative society, or

(b) guaranteed the principal and interest in respect of debentures issued by a co-operative society ; or

(c) guaranteed the principal and interest in respect of loans and advances to a co-operative society ; or

(d) assisted a co-operative society with loans or grants out of its own funds, the State Government, or any authority specified by the State Government in this behalf, shall have the right to nominate on the board of the co-operative society not more than three members of the board or one-third of the total number of elected members of the board, whichever is less.

34. *Reservation of seats on board.*—The State Government may by notification stating reasons therefor, provide for reservation of not more than one-fifth of the seats on the board of a co-operative society for such community, class or group of persons which, in the opinion of the State Government, are socially or educationally backward.

CHAPTER V

Election authority, cadre of services and Co-operative Service Commission

35. *Co-operative election authority.*—(1) The State Government shall, by notification, appoint a Co-operative election authority with a Chairman and such number of other members, not exceeding three, as it may, think fit for the superintendence, direction and control of election of the co-operative societies mentioned in the Fifth Schedule.

(2) The Chairman of the Co-operative election authority shall be a member of the West Bengal Civil Service (Executive) or the West Bengal Civil Service (Judicial) or the West Bengal General Service with not less than ten years' service as such.

(3) The Co-operative election authority shall discharge its functions in such manner as may be prescribed.

(4) The State Government shall appoint such staff to assist the Co-operative election authority in discharging its functions as may be required by the Co-operative election authority on such terms and conditions as may be prescribed.

36. *Election of directors of the board.*—Subject to the provisions of this Act, the State Government shall make rules providing for—

(a) the conduct of election of directors of the board of a co-operative society,

(b) the preparation of electoral roll for the election of such directors,

(c) fixing the date, place and manner of election of such directors,

(d) fixing the date of publication of the results of the election of such directors.

37. *Cadre of service of managers, assistant managers and other employees and constitution of cadre authority.*—The State Government may constitute one or more cadres of services of managers, assistant managers and other employees for all co-operative societies or a class of co-operative societies on such terms and conditions and in such manner as may be prescribed.

38. *Co-operative Services Commission.*—(1) The State Government shall, as soon as may be after the commencement of this Act, constitute a Co-operative Services Commission and shall appoint a person who has been or is a judge of the High Court at Calcutta or a person who holds or has held a post not below the rank of a Secretary to State Government.

(2) The Chairman shall hold office for a term of three years :

Provided that the State Government may extend the term of his office for a period not exceeding one year.

(3) The salaries and allowances of the Chairman shall be such as may be prescribed.

(4) The number of officers and other employees of the Co-operative Service Commission and the salaries, allowances, terms and conditions of service (including conduct, discipline and control) of such officers and other employees shall be such as may be prescribed.

(5) The Co-operative Service Commission shall select persons to be appointed in the co-operative societies mentioned in the Fifth Schedule on such basic monthly salary as may be prescribed

(6) Every co-operative society shall consult the Co-operative Service Commission on all disciplinary matters affecting any of its employees appointed on the recommendation of the Co-operative Service Commission and on such other matters as may be specified by the State Government by notification.

(7) The Selection Committee of the Co-operative Service Commission shall consist of—

(a) the Chairman of the Co-operative Service Commission,

(b) a representative of the State Level Co-operative Society or District Level Co-operative Society, as the case may be, and

(c) a representative of the co-operative society for which the selection of employee is to be made :

Provided that in the case of selection of employees for the State Level Co-operative Society, the Selection Committee shall consist of—

(a) the Chairman of the Co-operative Service Commission,

(b) a representative of the State Level Co-operative Society, and

(c) one person conversant with the business of the State Level Co-operative Society to be nominated by the Registrar from amongst the employees of the Co-operative Directorate of the State Government.

CHAPTER VI

Duties and obligations of co-operative societies

39. *Address of co-operative society.*—Every co-operative society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent and shall send notice in writing of every change thereof within thirty days of such change to the Registrar, the financing bank, if any, and the co-operative society of which it is a member.

40. *Books and documents to be open to inspection by members.*—Every co-operative society shall keep open to inspection by its members, free of charge, during office hours, at its address, such books and other documents as may be prescribed and certified copies thereof shall be supplied by it to its members on payment of the prescribed fee.

41. *Affiliation to State and Regional Co-operative Unions*—(1) Every co-operative society shall be required to be affiliated to the State Co-operative Union or the district co-operative union, as may be prescribed, on payment of the prescribed affiliation fee or periodical fee or subscription.

(2) Non-compliance with the provisions of sub-section (1) shall be punishable with such penalty, not exceeding five hundred rupees, as may be prescribed.

42. *Appointment of persons in the service of a co-operative society.*—(1) A co-operative society shall appoint, subject to the provisions of sub-section (5) of section 38, such officers and other employees as may be sanctioned by the Registrar to assist the co-operative society in the performance of its duties and discharge of its functions under this Act or the rules. The Registrar shall accord such sanction, or, in case of refusal, intimate to the co-operative society the reasons for such refusal within three months from the date on which any such proposal is submitted by the co-operative society, failing which the sanction shall be deemed to have been accorded by the Registrar. The qualifications and conditions of service of the officers and other employees of the co-operative society shall be such as may be prescribed.

(2) (a) The books and registers to be maintained by different classes of co-operative societies shall be such as may be prescribed.

(b) The books and registers as aforesaid shall be kept in the custody of such person and in such manner as may be prescribed. Any person who fails or refuses to produce the books and registers when required by the Registrar or any person authorised by him in this behalf shall be punishable with such fine, not exceeding five hundred rupees, as may be prescribed.

43. *Restriction borrowing.*—A co-operative society may receive deposits and loans to such extent and under such conditions as may be prescribed.

44. *Issue of debentures.*—(1) A co-operative society may receive loans by issue or re-issue of debentures of one or more denominations for such period as may be prescribed. Such debentures shall not be issued or re-issued save with the express authority of the State Government.

(2) The State Government shall guarantee the principal and interest on the debentures, subject to such conditions as it may lay down. The State Government shall appoint the Registrar or any other person as Trustee for securing the fulfilment of the obligations of the co-operative society to holders of the debentures. The Trustee so appointed shall

exercise the powers and perform the functions of a Trustee laid down in the India Trusts Act, 1982 (2 of 1982).

(3) The State Government may be order declare that the debentures issued under sub-section (1) shall be deemed to be securities within the meaning of section 20 of the India Trusts Act, 1882. The form of the debentures and any subsequent modification therein shall be subject to the previous approval of the State Government.

45. Vesting of assets of co-operative society in the Trustees upon issue of debenture—Upon the issue of debentures under sub-section (1) of section 44 the assets of a co-operative society (including any mortgage which it holds by acceptance, assignment or transfer) shall vest in the Trustee and the holders of debentures shall have a floating charge on all such assets (including) the amounts paid under such mortgage and remaining in the custody of the Trustee or the co-operative society) and on other properties of the co-operative society.

46. Issue of bonds.—(1) Notwithstanding anything contained elsewhere in this Act, a co-operative credit society may, with the prior approval of the State Government and subject to its by-laws, borrow money by issue of bonds in conformity with such directions or instructions as may be given by the Reserve Bank of India from time to time.

(2) The bonds shall be in the form of promissory notes repayable on the expiry of such period from the date of issue thereof as may be approved by the Reserve Bank of India :

Provided that the board may repay the amount due under the bonds to the holders thereof at any time before the expiry of the aforesaid period after issuing a notice in such manner as it may direct in this behalf.

(3) The provisions of section 44 shall, with such modifications as may be made by the State Government in consultation with the Reserve Bank of India, apply to the borrowings under sub-section (1) of this section.

47. Restrictions on lendings.—(1) A co-operative society shall grant loans to its members only :—

Provided that a co-operative society may, with the sanction of the Registrar, grant, in the manner prescribed, loans to any other co-operative society which is not its member.

(2) A co-operative society may grant loan to a member thereof belonging to such economically weaker sections as may be prescribed at a concessional rate of interest and against a lower scale of security, irrespective of the value of shares held by him.

48. Power of State Government to give financial assistance.—Notwithstanding anything contained in the other law for the time being in force, the State Government may, subject to the rules,—

(i) grant loans to, take shares in, or give financial assistance in any co-operative society ;

(ii) guarantee the repayment of share capital of any co-operative society and dividends thereon at such rate as may be specified by the State Government :

(iii) guarantee the repayment of principal and payment of interest on loans and advance to any co-operative society.

49. Power of State Government to issue directive.—The State Government may, for reasons to be recorded in writing and after giving the co-operative society an opportunity of being heard, at any time issue

directive to any co-operative society or any class of co-operative societies to modify its policies in the manner specified in such directives or to take such other action as the State Government may consider necessary or expedient in the interest of such co-operative society or class of co-operative societies or of the co-operative movement in general.

50. *Limitation.*—Notwithstanding the provisions of the Limitation Act, 1933 (36 of 1933), the period of limitation for the institution of a suit to recover any sum (including interest thereon) due to a co-operative society by a member thereof or any person having transaction with the co-operative society shall be computed from the date on which such member or person dies or ceases to be a member or, as the case may be, closes transaction with the co-operative society.

51. *Debts due to co-operative societies to be first charge.*—(1) Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of the West Bengal Agricultural Credit Operations Act, 1973 (West Bengal Act XXXIV of 1973) and to any claim of the State Government in respect of land revenue, any debt or outstanding demand owing to a co-operative society by any member or any past or deceased member of such co-operative society shall be a first charge upon the lands, crops or other agricultural produce, cattle, fodder, agricultural or industrial implements or machinery, raw materials, finished products, house or building or any portion thereof belonging to such member or past member or forming part of the estate of such deceased member, as the case may be.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds such charge.

(3) Notwithstanding anything contained in any other law for the time being in force, any transfer of property made in contravention of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available against any claim of the State Government arising from a loan granted under the Land Improvement Loans Act, 1883 (19 of 1883) or the Agriculturists' Loans Act, 1884 (12 of 1884) after the grant of the loan by a co-operative society.

52. *Charge on immovable property of members borrowing from certain co-operative societies.*—Notwithstanding anything contained in this Act or in any other law for the time being in force,—

(a) a member who makes an application for loan to a co-operative society of which the majority of the members are agriculturists shall, if he owns any land or has interest in any land as a tenant, make in the prescribed form a declaration that he thereby creates a charge upon such land or interest as may be specified in the declaration for repayment with interest of the loan or of the future loans, if any, that may be granted to him by the co-operative society from time to time.

(b) a declaration made under clause (a) may be varied or cancelled by the member at any time with the consent of the co-operative society ;

(c) the land or the interest upon which a charge has been created under clause (a) shall not be transferred by the member until the entire amount of the loan including interest has been repaid by the member :

Provided that nothing in this clause shall apply to such part of the land

or interest as has been released under clause (c) from the charge created under clause (a) ;

(d) any transfer made in contravention of clause (c) shall be void ;

(e) if the member repays a part of the dues on account of any loan and makes an application for release of the land or interest from the charge created under clause (a), the co-operative society may, with the approval of the central bank and concerned unit of the State Co-operative Bank to which it may be indebted and having regard to the security of the outstanding amount of the loan and the interest thereon, release from the charge such portion of the land or the interest as it may deem proper.

53. *Loan by Gehan.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, if any member owning any land or other immovable property or having interest in any land or otherwise being in lawful occupation of any land (including a share cropper), who has not borrowed money under section 52, makes an application to a co-operative credit society for loan, he shall by a declaration in the prescribed form create a special charge to be called Gehan in favour of the co-operative credit society on such land or other immovable property or his interest therein to secure payment with interest of the loan to be granted to him for the present and in future by the said co-operative credit society on such application and any other loan that may be granted to him by it from time to time so, however, that the total amount of all loans taken together does not exceed the maximum limit fixed by it and for payment of interest due on all such loans and expressly reserving in favour of the co-operative credit society a right of sale without intervention of court in case of default. The Gehan shall take effect from the date of its execution.

(2) Notwithstanding anything contained in the Registration Act, 1908 (6 of 1908), it shall be necessary to register a Gehan :

Provided that when a Gehan has been executed in favour of a primary co-operative credit society for repayment of any loan, the manager of the primary co-operative credit society or any officer deputed by the State Government or the Registrar under section 28 or the financing bank which advances the loan to the primary co-operative credit society shall send a copy of the Gehan to the registering officer having jurisdiction over the loan or part thereof or other property and the registering officer shall file such copy in his book No. 1 prescribed under section 51 of the Registration Act, 1908.

(3) An officer deputed by the State Government or the Registrar under section 28 shall administer the oath, where necessary, for affirming or swearing the declaration under sub-section (1).

(4) A Gehan shall be deemed to have created and interest in the property to which the declaration relates and shall constitute notice to any one dealing with such property.

(5) The provisions of clauses (b), (c) and (d) of section 52 shall apply to a Gehan and the provisions of section 110, 113 and 114 shall apply *mutatis mutandis* to a Gehan.

54. *Appointment of sale officer.*—The Registrar shall appoint a sale officer for conducting the sale under section 53. The sale officer shall conduct the sale in the prescribed manner.

55. *Utilisation of the sale proceed.*—Out of the sale proceeds of a sale under section 54, the land revenue or any sum recoverable as a public demand shall be paid first and then any amount due to the land development bank on account of any outstanding loan from that bank and amount payable to the co-operative society together with the cost incurred for effecting the sale shall be paid. Thereafter the dues to the creditor shall be paid and the residue, if any, shall be paid to the debtor.

56. *Levy of water rate and embankment protection rate on non-members*—(1) A co-operative society having its object to provide irrigational facilities and embankment protection facilities to lands of its members may levy water rate and embankment protection rate on persons, who, although not members thereof, hold not less than forty per cent of the agricultural land to be irrigated, under such circumstances and at such rates as may be prescribed.

(2) A co-operative society, an object of which is agricultural farming through consolidation of land holdings may admit any non-member owning agricultural lands as its member under such circumstances and stipulations as may be prescribed.

57. *Charge and set off of shares and interests*—(1) A co-operative society shall have a charge upon the shares or interest in the capital and deposits of a member (including a past or deceased member) and upon the amount payable out of profits to a member or past member or to the estate of a deceased member on account of any debt due to it by such member or past member or deceased member, as the case may be.

(2) Subject to the provisions of sections 80 to 84 and the rules and the by-laws, a co-operative society may set off any amount credited or payable to a member or past member or the estate of a deceased member in or towards payment of any debt referred to in sub-section (1).

58. *Deduction of dues to co-operative societies from members and sureties.*—(1) A member of a co-operative society may execute an agreement in favour of the co-operative society providing that his employer shall be competent to deduct from the salaries or wages and retiring gratuity or death gratuity payable to him by such employer such amount as may be specified in the agreement and to pay the amount to the co-operative society in satisfaction of any debt or other demands of the co-operative society against the member.

(2) Upon the execution of the agreement under sub-section (1) the employer shall on the requisition of the co-operative society in writing and for so long as the co-operative society does not intimate that the debt or demand has been fully paid make the deduction in accordance with the agreement and pay the amount to the co-operative society as if it were part of the wages payable by him under the Payment of Wages Act, 1936 (4 of 1936) on the date on which he makes the payment.

(3) If the employer fails to make the deduction under sub-section (2) or defaults in making payment to the co-operative society, he shall be liable to make the payment to the co-operative society together with interest at twelve per cent, per annum and the entire amount shall be recoverable from the employer by the co-operative society as an arrear of land revenue and such amount shall rank in priority in respect of the liability of the employer as wages in arrear.

59. *Exemption from compulsory registration of instruments relating to shares and debentures of co-operative society and mortgage deeds executed in favour of co-operative land development bank or primary co-operative society*—
(1) Nothing in clauses (b) and (c) of sub-section (1) of section 19 of the Registration Act, 1908 (16 of 1906) shall apply to—

(a) any instrument relating to shares in a co-operative society, or
(b) any debenture issued by any co-operative society without creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in any immovable property except in so far as it entitled the holder of the debenture to the security afforded by a registered instrument whereby the co-operative society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or interest therein to trustees upon trust for the benefit of the holder of the debenture ; or

(c) any endorsement upon, or transfer of, any debenture issued by any co-operative society.

(2) Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary to register a mortgage deed executed in favour of a co-operative land development bank or a primary co-operative society of which the majority of the members are agriculturists :

Provided that the manager of, or any officer deputed by the State Government or the Registrar under section 28 to, any co-operative land development bank or the financing bank which advanced loan to the primary co-operative society shall send within such time and in such manner as may be prescribed a copy of the mortgage deed to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property is situate and the registering officer shall file such copy in his book No. 1 prescribed under section 51 of the Registration Act, 1908.

60. *Power to remit duties, fees, etc., and to grant preference and exemption*.—(1) Where the State Government is competent to remit any tax, cess or fee payable under any law for the time being in force, it may in the case of a co-operative society or class of co-operative societies remit such tax, cess or fee by general or special order.

(2) The State Government may, by notification, remit—

(a) the stamp duty (other than the stamp duty falling within entry 91. or entry 96 of List I of the Seventh Schedule to the Constitution of India) in respect of any instrument executed by, or on behalf of, or in favour of, any co-operative society or a class of co-operative societies or an officer or member thereof and relating to the business of such co-operative society or such class of co-operative societies in cases where but for such remission such co-operative society or class of co-operative societies or the officer or member thereof would have been liable to pay the stamp duty chargeable under any law for the time being in force in respect of such instrument :

Provided that no such remission of stamp duty payable by a member of a co-operative society in whose favour an apartment in a multistored building is allotted or to whom such apartment is transferred shall be made if the value of such apartment exceeds one lakh and twenty-five thousand rupees ; and

(b) any fee payable by a co-operative society or a class of co-operative societies under any law for the time being in force for the registration of any document.

(3) Notwithstanding anything contained in any other law for the time being in force, the State Government may, by general or special order, grant such preference and such exemption as may be prescribed.

61. *Compromise or arrangement between co-operative society and its creditor.*—No compromise or arrangement between a co-operative society and its creditor shall be made except with the prior approval of the Registrar and in such manner as may be prescribed.

CHAPTER VII

Properties and funds of co-operative societies

62. *Investment of funds.*—A co-operative society may invest or deposit its funds —

- (a) in a Government savings bank ; or
- (b) in any security specified in section 20 of the Indian Trusts Act, 1882 (2 of 1882) ; or
- (c) in the share or debenture or security of any other co-operative society with the previous sanction of the Registrar and in the manner prescribed :

Provided that no such sanction shall be necessary where a primary co-operative society invests or deposits fund in the share or debenture of a central society or an apex society or where a central society or apex society invests or deposits its fund in the share or debenture of a primary co-operative society ; or

- (d) in such other manner as may be prescribed.

63. *Co-operative Education Fund* —(1) There shall be a Fund to be called the Co-operative Education Fund to be administered by such authority and in such manner as may be prescribed. Every co-operative society shall contribute to the Co-operative Education Fund such portion of its net profit in any co-operative year as may be prescribed.

(2) All references to the Co-operative Development Fund established under the West Bengal Co-operative Societies Act, 1973 (West Ben. Act XXXVIII of 1973) shall be construed as references to the Co-operative Education Fund established under this Act.

64. *Bad Debt Fund.*—Every co-operative society shall create a Bad Debt Fund by transfer of not less than fifteen per cent of its net profit in a co-operative year and shall utilise it in any business if it has no outside liability in the form of bad debt certified by the audit or in such other manner as may be prescribed.

65. *Reserve Fund* —Every co-operative society shall transfer in every co-operative year not less than ten per cent of its net profit to a Reserve Fund :

Provided that the Reserve Fund shall be invested in a Government Saving Bank including Nationalised Banks and Regional Rural Banks or in any security specified in section 20 of the Indian Trusts Act, 1882 (2 of 1882) or in the business of the co-operative society in such manner as may be prescribed.

66. *Employees' Provident Fund.*—A co-operative society may, notwithstanding anything contained in the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), establish a provident fund for the benefit of its whole-time employees with the contributions of such employees and may make contribution to the fund at the prescribed rate and

the fund shall be administered in such manner as may be prescribed.

67. *Gratuity Fund*.—A co-operative society may establish a Gratuity Fund in accordance with the provisions of the Payment of Gratuity Act, 1972 (29 of 1972) for the benefit of its employees.

68. *Distribution of profit*—(1) Subject to the provisions of sections 63, 64 and 65 and sub-section (2) of this section, the net profit of a co-operative society in a co-operative year shall be distributed among its members by way of bonus or dividend.

(2) Subject to such conditions as may be prescribed, the balance of the net profit in a co-operative year together with the undistributed net profit, if any, of the previous year may, to such extent and under such conditions as may be prescribed, be utilised for all or any of the following purposes :—

(a) payment of dividend to members on their paid up share capital at a rate not exceeding twelve per cent ;

(b) contribution to such special funds as may be prescribed or as may be provided in the by-laws ;

(c) contribution of any amount not exceeding ten per cent of the net profit in a co-operative year for any, charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890) or for such other purposes as may be prescribed.

CHAPTER VIII

Eligibility for membership and privileges, liabilities and obligations of members

69. *Eligibility for membership of co-operative society*.—(1) Subject to the rules and the by-laws, the following persons shall be eligible for membership of a co-operative society :—

(a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (9 of 1872) ;

(b) any other co-operative society ;

(c) the State Government ;

(d) subject to the approval of the State Government by general or special order, any association or body of persons (whether incorporated or not) or any financial bank :

Provided that a student who has not attained the age of majority according to the law to which he is subject shall be eligible for membership of a co-operative society formed in an educational institution to which he belongs.

(2) An employee of a co-operative society who is eligible under sub-section (1) to be its member shall, on an application made by him, be admitted as a member of such co-operative society but shall have no right to vote at an election of, or for being elected as, a director of the board:

Provided that an employee of a co-operative society composed of worker members who is eligible under sub-section (1) to be its member shall, on an application made by him, be admitted as a member of such co-operative society and shall have a right to vote at an election of, or for being elected as, a director of the board.

70. *Admission as member*.—(1) A person eligible for membership under sub-section (1) of section 69 may apply to a co-operative society for admission as a member thereof in the prescribed form and manner. A

copy of the application shall be hung up on the date of its receipt by the co-operative society on its notice board, and written objection, if any, there-to from any member of the co-operative society shall be received by the co-operative society within a period of seven days from that date. The application shall be granted within a period of forty-five days from the date of receipt thereof if no written objection thereto is received by the co-operative society within seven days from the date of its receipt.

(2) If any objection is received within the period referred to in sub-section (1), it shall be disposed of in the prescribed manner within a period of thirty days from the date of its receipt.

(3) The decision of the co-operative society on the application shall be communicated to the applicant within thirty days from the date of the decision. If no such communication is made, the application shall be deemed to have been refused by the co-operative society.

(4) Any person whose application for admission as member has been refused or deemed to have been refused by the co-operative society may appeal to the Registrar within such period as may be prescribed and the Registrar shall pass such order thereon as he thinks fit and such order shall be final. If the Registrar is of opinion that the co-operative society has not deliberately communicated to the applicant the decision on his application, as required under sub-section (3), he may take such action in the matter as may be deemed fit.

(5) Notwithstanding anything contained in sub-sections (1), (2), (3), and (4), any person eligible for membership of a primary co-operative credit society or a farmers' service co-operative society shall, on application for such membership, be deemed to have been admitted as a member of the primary co-operative credit society or the farmers' service co-operative society, as the case may be, from the date of receipt of the application.

(6) The State Government may, by notification, extend the provisions of sub-section (5) to such other co-operative society as it may deem necessary.

(7) Any person being aggrieved may file objection thereto to the Registrar within fifteen days from the date of receipt of an application under sub-section (5). The Registrar shall either dispose of the objection himself or refer it to an officer subordinate to him, not below the rank of an Inspector of Co-operative Societies, for disposal. Such objection shall be disposed of within thirty days from the date of receipt thereof after giving the parties concerned an opportunity of being heard.

(8) Notwithstanding anything contained in sub-sections (5) and (7), the Registrar may, at any time of his own motion and after giving the individual concerned an opportunity of being heard cancel the membership of such individual for reasons to be recorded in writing.

71. Votes of members.—(1) Subject to the rules relating to voting by delegates, no member of a co-operative society shall have more than one vote in any matter that is put to vote or be permitted to vote by proxy:

Provided that in the case of an equality of votes, the Chairman of the meeting shall have a second or casting vote:

Provided further that if any member of a co-operative housing society or a co-operative consumers' society is unable to attend any of its meetings, such member may in writing authorise his wife or husband, as the case may be, to vote at such meeting on production of the authority.

(2) Where two persons are joint members of a co-operative society, any one of them may attend a meeting of the co-operative society and shall have the right to vote at such meeting.

(3) A co-operative society which is a member of any other co-operative society (hereinafter referred to as the latter co-operative society) may in writing authorise one of its members, not otherwise disqualified for being so authorised under this Act or the rules or the by-laws, to vote at any meeting of the latter co-operative society.

72. *Members not to exercise rights till payment duly made.*—No member of a co-operative society shall exercise his right as such member till he has made such payments to the co-operative society in respect of his membership or has acquired such interest in the co-operative society as may be provided by rules or by-laws.

73. *Utilisation of loans.*—A loan granted by a co-operative society to a member thereof shall be utilised by such member for the purpose for which it was granted. If the co-operative society is of opinion that the loan has not been utilised for the purpose for which it was granted, it may direct such member in the prescribed manner to refund the entire amount of the loan, and the amount shall be refundable forthwith.

74. *Share or interest not liable to attachment*—Notwithstanding anything contained in any law for the time being in force but subject to the provisions of section 57, the share or interest of a member in the capital of a co-operative society or in the provident fund established under section 66 shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither the official Assignee under the Presidency-towns Insolvency Act, 1909 (3 of 1909) nor the receiver under the Provincial Insolvency Act, 1920 (5 of 1920) shall be entitled to, or have any claim on, such share or interest.

75. *Liability of members.*—The members of a co-operative society shall, upon the winding of the co-operative society, be jointly and severally liable to contribute towards any deficiency in the assets of the co-operative society,—

(a) if the co-operative society is a co-operative society with unlimited liability, without limit; and

(b) if the co-operative society is a co-operative society with limited liability, subject to such limitation as may be provided in the by-laws.

Provided that where any shares of a co-operative society are purchased by the State Government or by any other co-operative society, the liability in respect of such shares shall, upon the winding up of the co-operative society, be limited to the amount paid in respect of such shares.

76. *Liability of past member or estate of deceased member.*—The liability of a past member or the estate of a deceased member of a co-operative society for debts of the co-operative society as they existed on the date of ceasing to be a member of the co-operative society or on the date of death of the member, as the case may be, shall continue for a period of two years from that date:

Provided that where a co-operative society is directed to be wound up under section 99 within the period of two years as aforesaid, such liability shall continue until the proceedings for winding up of the co-operative

society are completed by the liquidator.

77. Restrictions on interest of members of co-operative society with limited liability and share capital—Where the liability of a member of a co-operative society is limited by shares, no member other than the State Government or another co-operative society shall—

(a) hold more than such portion of the share capital of the co-operative society as may, subject to a maximum one-fifth, be prescribed ; or

(b) have or claim any interest in the form of dividend, profit or return with respect to the shares of the co-operative society exceeding five thousand rupees:

Provided that the State Government may, by notification, raise in respect of any co-operative society or any class of co-operative societies and to such extent as may be specified in the notification the maximum limit of share capital referred to in clause (a) or the maximum limit of interest referred to in clause (b).

78. Restriction on transfer of share or interest.—(1) The transfer or charge of the share or interest of a member of a co-operative society in the capital of the co-operative society shall be subject to the provisions of this Act and to such conditions as to the maximum holding as may be prescribed and shall require the approval of the board:

Provided that in the case of a member of a co-operative society with unlimited liability, such transfer or charge shall not require the approval of the board.

(2) No transfer or charge of his shares or interest by a member of a co-operative society with unlimited liability shall be valid unless—

(a) he has held such share or interest (save in the case of transfer under sections 80, 81, 83 or 84) for not less than one year ; and

(b) the transferee or the mortgagee is either a member of such co-operative society or a person whose application for membership has been accepted by any other co-operative society.

(3) Where the State Government is a member of a co-operative society, the restrictions under this section shall not apply to any transfer made by it of its share or interest in the capital of the co-operative society.

79. Nomination of transferee.—Subject to the by-laws of a co-operative society, any member of such co-operative society may in accordance with the rules nominate a person in whose favour the co-operative society shall dispose of the share or interest of such member on his death.

80. Disposal of deceased member's share or interest.—(1) On the death of a member of a co-operative society his share or interest in the co-operative society shall, subject to the provisions of sections 57 and 78 and to the further provisions of this section, be transferred—

(a) to the person, if any, nominated under section 79 ; or

(b) if there is no nominee or if the existence or residence of the nominee cannot be ascertained by the board or if, for any other cause, the transfer cannot be made without unreasonable delay, to the person who (subject to the production by such person of probate, letter of administration or succession certificate) appears to the board to be entitled in accordance with the rules to the possession of such share or interest as part of the estate of the deceased member ; or

(c) on the application of the person referred to in clause (b) within three months from the date of death of the member, to such person as may be specified in the application.

(2) If the share or interest of a deceased member cannot be transferred in accordance with the provisions of sub-section (1) or if the persons to whom such share or interest is payable under that sub-section claims payment of the value of such share or interest or if the co-operative society in accordance with the rules and its by-laws decides to proceed under this sub-section,—

(a) the share shall be transferred to a person qualified to be a transferee of the share under section 78 on receipt of the value of the share from such person; and

(b) the value of the share or the interest of the deceased member determined in accordance with the rules shall be paid to the person nominated under section 79 or to the person referred to in clause (b) of sub-section (1) of this section after deducting the amount payable under this Act to the co-operative society from the estate of the deceased member.

81. *Disposal of share or interest of expelled, resigned or insane member.* When a member of a co-operative society is expelled or resigns in accordance with the rule, or the by-laws of the co-operative society or becomes insane,—

(a) his share or interest shall be transferred to a person qualified to be a transferee of such share or interest under section 78, and the value thereof shall be paid to the member in cash within two years from the date of expulsion or resignation, as the case may be or, if the member is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912 (4 of 1912).

82. *Restriction or transfer of possession of, and interest in, land held under co-operative society.*—Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force,—

(a) a member of a co-operative society, the object of which is the reclamation and colonisation of land or the acquisition of land and the leasing thereof to its members, shall not be entitled to transfer his possession of, or interest in, any land held by him under the co-operative society except to the co-operative society or with its previous approval in accordance with its by-laws, to a member thereof;

(b) when the membership of a member of a co-operative society referred to in clause (a) terminates by reason of death, expulsion, resignation or insanity or any other cause, his possession of, or interest in, any land held by him under the co-operative society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 79, if such heir, executor, administrator or person is willing to be admitted as a member of the co-operative society and is eligible for membership under section 69;

(c) if the heir, executor, administrator or person referred to in clause (b) does not become a member of the co-operative society, the possession of, and interest in, the land including the structure thereon, if any, of the deceased, expelled, resigned or insane member shall vest in the co-operative society, and the co-operative society shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to

the value of the land including the structure, if any, as determined in accordance with the rules or the by-laws of the co-operative society ;

(d) no land held by a member under a co-operative society referred to in clause (a) or vested in his heir, executor or administrator or in the person under clause (b) shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the co-operative society or to a member thereof.

83. Disposal of share or interest of member of wound up co-operative society.—When an order is issued under section 99 for winding up of a co-operative society which is a member of a co-operative society with limited liability and liquidator is appointed under section 100, the liquidator shall transfer the share or interest of the co-operative society being wound up, subject to the provisions of section 78, to any person or other co-operative society on receipt from such person or co-operative society the value of such share or interest determined in accordance with the rules:

Provided that if the transfer of share or interest is not possible within a reasonable period from the date on which the order issued under section 99 for winding up of the co-operative society takes effect, the value of such share or interest determined in accordance with the rules shall, within two years from the date of the order for winding up, be paid to the liquidator, or may, with the previous approval of the Registrar, be set off by the liquidator against any sum which is due from the co-operative society being wound up to the co-operative society with limited liability of which the co-operative society being wound up is a member.

84. Disposal of moneys to a deceased, expelled, resigned or insane member—(1) All sums calculated in accordance with the rules to be due from a co-operative society to a member, other than payment to be made in respect of share or interest of such member to the co-operative society, shall, subject to the provisions of section 57, be paid within one year,—

(a) in the case of a deceased member, to the person to whom the share and interest are transferred or their value is paid in accordance with the provisions of section 80 ;

(b) in the case of a member who has been expelled by, or has resigned from, a co-operative society, to him ; and

(c) in the case of a member who has become insane, to the person appointed to manage his properties under the Indian Lunacy Act, 1912 (4 of 1912).

(2) All payment and transfers made by a co-operative society in accordance with the provisions of section 80 to 83 and sub-section (1) of this section shall be valid and effectual against any demand made upon the co-operative society by any other person.

CHAPTER IX

Special provisions for co-operative housing societies

85. Membership or promotership of co-operative housing society—(1) Notwithstanding anything contained elsewhere in this Act, but subject to such conditions as may be prescribed, any individual who is a permanent resident of West Bengal or who intends to reside in West Bengal permanently and the State Government shall be eligible for membership of a co-operative housing society.

(2) Any person eligible for membership of a co-operative housing

society under sub-section (1) may apply to such society for being admitted as a member thereof, and membership shall not be denied to him if plots of land, houses or apartments in multi-storied buildings constructed or under construction by it are available for allotment to such person on the date of application, and plot of land or house or apartment as applied for shall be allotted to him.

(3) A person shall not be a promoter or admitted as a member of a co-operative housing society until he has made a declaration and sworn before an Executive Magistrate to the effect that he is not a member of any other co-operative housing society in West Bengal and that he or any member of his family does not own any house or apartment or plot of land in the city, town or village where the co-operative housing society is located.

(4) Before a co-operative housing society is registered, its promoters shall, in a meeting called for the purpose elect from amongst themselves a chief promoter, a chairman, a vice-chairman and a treasurer of the co-operative housing society. The powers and functions of the chief promoter, chairman, vice-chairman and treasurer shall be such as may be prescribed.

(5) All payment to or by a co-operative housing society shall be made and all accounts thereof shall be maintained, in such manner as may be prescribed.

(6) The owners of apartments in any multi-storied building constructed or under construction by any statutory authority may, if all such owners agree in writing, form a co-operative housing society and apply for registration thereof under section 15, and the application in this behalf shall be supported by the agreement.

(7) A member of a co-operative housing society in whose favour a plot of land or a house or an apartment, as the case may be, in a multi-storied building has been allotted shall, unless he is compelled to reside elsewhere under such circumstances as may be prescribed, use the same as residence of himself and his family.

(8) A member of a co-operative housing society shall communicate to the co-operative housing society in writing his intention to vacate the possession of the plot of land or the house or the apartment in a multi-storied building in such manner as may be prescribed.

(9) A member of a co-operative housing society in whose favour a plot of land or a house or an apartment in a multi-storied building has been allotted may transfer such plot or house or apartment as the case may be with the written consent of the co-operative housing society, under such terms and conditions and in such manner as may be prescribed, to any other person eligible to be a member of the co-operative housing society under sub-section (1). If the co-operative housing society refuses to give its consent to such transfer, it shall record the reasons for such refusal in writing and communicate the same to the member within one month from the date of receipt of his application in this regard, and the member shall have a right of appeal to the Registrar within such period as may be prescribed.

(10) After a co-operative housing society has been registered under section 15 and the certificate of registration issued under section 16 has been received by the co-operative housing society, all bank accounts opened

by the chief promoter of the co-operative housing society shall be closed and all amounts thereof shall be credited to the account of the co-operative housing society.

(11) No expenditure incurred by a promoter or chief promoter of a co-operative housing society for any land or house or apartment in a multi-storied building shall be binding on the co-operative housing society unless such expenditure is authorised by a resolution in a meeting of promoters.

(12) A member of a co-operative housing society shall not make any alteration or addition or repair to any house or apartment in a multi-storied building in his possession except with the previous approval of the co-operative housing society. The member shall apply to the co-operative housing society for the aforesaid purpose in the prescribed manner. The co-operative housing society shall consider the application in a meeting of the board and communicate to the member its decision thereon within one month from the date of receipt of the application, failing which the application shall be deemed to have been approved :

Provided that if the board decides to refuse the application, the member shall have a right to make an appeal against such decision to the Registrar within fifteen days from the date of communication of the decision and the Registrar shall decide the appeal within fifteen days from the date which the appeal is made.

(13) The cost of land (including its development charges) and the cost of any house or apartment on such land built by a co-operative housing society, either by itself or by contractors appointed by it, shall be apportioned amongst its members in such manner as may be prescribed.

86 *First general meeting of co-operative housing society.*—(1) Notwithstanding anything contained in this Act, a co-operative housing society shall within ninety days from the date of receipt of the certificate of registration under section 16, call its first general meeting for the purpose of—

- (a) electing the directors of the board ;
- (b) placing a report on the progress of work and other particulars relating to the project of the co-operative housing society ;
- (c) finalising the policy and mode of allotment of plots, houses and apartments in multi-storied buildings.

(2) If the election referred to in clause (a) of sub-section (1) is not held within the specified time, the Registrar may, after such inquiry as he thinks necessary, notwithstanding anything contained in section 99, order cancellation of registration of the co-operative housing society or winding up of its affairs and impose such penalty on the officers of the co-operative housing society as he may deem expedient.

(3) The board of a co-operative housing society in its first meeting and, whenever necessary, the members of a co-operative housing society in a general meeting shall prepare a panel of architects, valuers and building contractors in the manner prescribed, fix the fees to be paid to each of them and obtain their written consent thereto. The co-operative housing society shall send a copy of the panel and the schedule of fees to the Registrar and shall not have any of its works done by any person other than those included in the panel.

87. *Member's right of ownership.*—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882) or the Registration Act, 1908 (16 of 1908), any allotment (including re-allotment) of a plot of

land or a house or an apartment in a multi-storied building made by a co-operative housing society to its member in accordance with its by laws shall entitle such member to hold such plot of land or house or apartment with such title or interest as may be granted under the prescribed conditions and the certificate of allotment shall be the conclusive evidence of such title or interest in favour of such member.

(2) A member of a co-operative housing society shall not be entitled to any title or interest in any plot of land or house or apartment in a multi-storied building until he has made such payment as may be prescribed towards the cost of such plot of land or construction of such house or apartment or both, as the case may be, to the co-operative housing society.

(3) A plot of land or a house or an apartment in a multi-storied building (including the undivided interest in the common areas and facilities) shall constitute a heritable and transferable immovable property within the meaning of any law for the time being in force :

Provided that notwithstanding anything contained in any other law for the time being in force, such heritable and transferable immovable property shall not be partitioned or sub-divided for any purpose whatsoever.

(4) Every member of a co-operative housing society shall be entitled to an undivided interest in the common areas and facilities pertaining to the plot of land or house or apartment allotted to him.

(5) Every member of a co-operative housing society in whose favour a plot of land or a house or an apartment in a multi-storied building has been allotted shall have the right to use the common areas and facilities as aforesaid for the purpose for which they are intended without interfering with or encroaching upon the lawful rights of other members in whose favour similar allotment has been made.

(6) The work relating to the maintenance, repair and replacement of the common areas and facilities (including additions or improvements thereto) shall be carried out in accordance with the by-laws of the co-operative housing society and the building rules of the concerned municipality, notified area authority or competent authority, as the case may be and the costs thereof shall be apportioned amongst the members of the co-operative housing society in such manner as may be prescribed.

88. Unit of assessment—(1) Notwithstanding anything contained in any other law for the time being in force, each plot of land or house or apartment in a multi-storied building (including the undivided interest in the common areas and facilities) shall constitute a separate unit for the purpose of assessment of rates and taxes to be realised by a municipality or a notified area authority or a competent authority.

(2) A co-operative housing society shall be liable to furnish to the Registrar such information or particulars in regard to its affairs at the end of each co-operative year or at any other time as the Registrar may by general or special order direct.

(3) After a co-operative housing society has been registered and till the possession of land, house or apartment in multi-storied building, as the case may be, is made over to the members of the co-operative housing society on the completion of a project undertaken by it, the co-operative housing society shall furnish to its members and to the Registrar at the end of every quarter a statement in the prescribed manner.

89. *Restrictions on letting out*—(1) Notwithstanding anything contained in any other law for the time being in force, no member of a co-operative housing society, who has been allotted a plot of land or a house or an apartment in a multi-storied building, shall let out such plot of land or house or apartment, as the case may be, and receive any compensation or income in respect of the plot of land or house or apartment, as the case may be, without the written consent of the co-operative housing society on a application made in this behalf. The co-operative housing society may give its consent or refuse such consent for reasons to be recorded in writing and communicate its decision to the member within one month from the date of receipt of his application.

(2) If the co-operative housing society fails to take decision on the application within one month from the date of its receipt or refuses such consent, the member shall have a right of appeal to the Registrar.

CHAPTER X

Audit, inspection and inquiry

90. *Audit of accounts of co-operative society*.—(1) The accounts of every co-operative society shall, at least once in each co-operative year, be audited at the expense of the co-operative society by the Registrar or by an audit officer appointed or authorised by him in this behalf by general or special order in writing from among the officers under his administrative control or from the panel of auditors prepared by him for this purpose.

(2) (a) The Registrar shall draw up an audit programme (including appointment of audit officers, issue of appointment letters to audit officers and intimation of such appointment to the co-operative society) not later than the thirtieth day of June of each calendar year.

(b) An audit officer appointed under clause (a) shall complete the audit not later than the thirty-first day of March of the calendar year next following.

(c) If the audit officer appointed under clause (a) does not take up the audit within three months from the date of his appointment, his appointment shall stand cancelled and the Registrar shall appoint another audit officer in his place.

(3) Every co-operative society shall send to the Registrar within the thirtieth day of September of each calendar year an annual return consisting of a cash account, a profit and loss account, a balance sheet and a trading account (where applicable) in the prescribed form.

(4) The Registrar shall not appoint the same audit officer to audit the accounts of the same co-operative society for two or more successive co-operative years:

Provided that when the audit of the accounts of any co-operative society is in arrear for two years or more, an audit officer may be entrusted by the Registrar to audit the accounts of the co-operative society for all such co-operative years.

(5) If, at the time of audit, the audit officer finds that the accounts of the co-operative society are not complete, he shall report the matter to the Registrar. The Registrar or, with his approval, the audit officer may cause the accounts to be completed at the expense of the co-operative society.

(6) An audit under sub-section (1) shall include examination of overdue debts (if any), verification of each balance and securities and valuation

of assets and liabilities of a co-operative society and such other matters as may be prescribed.

(7) The audited statement of accounts of a co-operative society together with due modifications, if any, made therein by the Registrar shall be final and binding on the co-operative society.

(8) An audit under sub-section (1) shall include annual audit, running audit and re-audit.

Explanation—(i) “Annual audit” shall mean audit of accounts of a co-operative society for each co-operative year.

(ii) “Running audit” shall mean audit of the accounts of a co-operative society within a co-operative year on monthly or quarterly basis as the Registrar may decide.

(iii) “Re-audit” shall mean audit of the accounts of a co-operative society for checking up the quality or standard of any previous audit. The co-operative society shall pay for every annual audit, running audit or re-audit such audit fee in such manner as may be prescribed.

91. Audit officer's report.—(1) After completion of audit of the accounts of any co-operative society the audit officer shall submit his report to the Registrar and to the co-operative society together with the statement of accounts within the period specified in sub-section (2) of section 90. The audit report shall include such information as may be prescribed.

(2) A co-operative society shall rectify the defects pointed out in the audit report and submit to the Registrar a report of compliance within forty-five days from the date of receipt of the audit report.

(3) Where the Registrar is of opinion that the defects pointed out in the audit report have not been fully rectified by the co-operative society, he may direct the co-operative society to rectify the defects still persisting in the accounts and to submit a further report of compliance with explanations within forty-five days from the date of receipt of such direction, and the co-operative society shall rectify such defects and submit a further report of compliance accordingly.

92. Inspection by Registrar or financing bank.—(1) Every co-operative society shall be liable at any time to inspection—

(a) by the Registrar or by any person authorised by the State Government or the Registrar in this behalf by general or special order.

(b) by the financing bank, if any, of which it is a debtor,

(c) by the apex society or the central society, if any, of which it is a member.

(2) An inspection under sub-section (1) by a financing bank or an apex society or a central society, as the case may be, shall be made by an officer of such financing bank or apex society or central society certified by the Registrar in accordance with the rules as competent to conduct such inspection.

(3) The Registrar may by general or special order direct that the report of an inspection under sub-section (1) or a summary thereof in respect of a co-operative society or a class of co-operative societies shall be communicated within one month from the date of inspection to the co-operative society and to the financing bank and the apex society or the central society if any, of which it is a debtor or a member, as the case may be, and, when the inspection is made by the financing bank, to the Registrar also.

(4) An inspecting officer may seize in the manner prescribed any book or document of a co-operative society during its working hours and shall report the fact of such seizure to the Registrar within twenty-four hours with a copy of the seizure list and the requisition:

Provided that no such seizure shall be made unless a written requisition is served on the co-operative society specifying therein the books and documents to be seized and the reasons therefor.

93 *Inquiry by Registrar.*—(1) The Registrar may, at any time of his own motion, hold by himself or by any person authorised by him by order in writing an inquiry into the constitution, working and financial condition of a co-operative society or into any specific matter relating to the affairs of a co-operative society.

(2) An inquiry under sub-section (1) may also be held by the Registrar or by any person authorised by him by order in writing on the application of—

(a) the financing bank, if any, of which the co-operative society is a member or a debtor ;

(b) the majority of the directors of the board of the co-operative society ;

(c) one-third of the members of the co-operative society each of whom has been a member for not less than six months immediately preceding the date of application and who have deposited such security for costs, if any, as the Registrar may direct :

Provided that in the case of a co-operative society having more than one thousand and five hundred members, an application under this sub-section may be made by the delegates elected in the prescribed manner ;

(d) the creditors, representing not less than one-half of the borrowed capital of the co-operative society, who have deposited such security for cost, if any, as the Registrar may direct.

(3) The Registrar shall communicate the report of an inquiry under this section or a summary thereof the co-operative society and to the applicant who made the application under sub-section (2).

94. *Cost inspection or inquiry.*—(1) The Registrar may, after giving the parties an opportunity of being heard, by order stating reasons, apportion the cost of inspection or inquiry held under section 92 or section 93, as the case may be, either wholly or in part, between the co-operative society and the directors, members, delegates or creditors thereof or the financing bank, as the case may be, making the application for inspection or inquiry, and the officers (including former officers) and the members (including past members) of the co-operative society.

(2) No expenditure shall be incurred from the funds of any co-operative society for defraying the cost of any appeal preferred against an order under sub-section (1) by any person other than co-operative society.

95. *Disputes to be referred to Registrar.*—(1) Any dispute concerning the business of a co-operative society capable of being the subject of civil litigation or any dispute relating to the affairs of a co-operative society (other than a dispute relating to the disciplinary action taken by a co-operative society against the paid employees of the co-operative society or the terms and conditions of service of the paid employees of the co-operative society) shall be referred in the prescribed manner to the Registrar, if the parties thereto are among the following :—

(a) a co-operative society or its board or an officer (past or present) agent, employee or liquidator of a co-operative society ; or

(b) a member or a past member or a person claiming through a member or a past member or on behalf of a deceased member of a co-operative society or financing bank of a co-operative society ; or

(c) a surety of a member or past member or deceased member of a co-operative society, whether such surety is or is not a member of the co-operative society ; or

(d) any other co-operative society or any person including any financing bank having transaction with a co-operative society or any liquidator of a co-operative society.

(2) Any dispute mentioned in sub-section (1) other than a dispute relating to recovery of money shall be referred to the Registrar within two months from the date on which the cause of action arises.

(3) Notwithstanding anything contained in the section or in any other law for the time being in force, the Registrar may admit any dispute after the expiry of the period of limitation provided in sub-section (2) if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period of limitation, and the dispute so admitted shall not be barred by limitation.

96. *Settlement of dispute*—(1) On receipt of a reference under sub-section (1) of section 95, the Registrar shall, subject to the rules,—

(a) decide the dispute himself ; or

(b) transfer the dispute for disposal to any person authorised by the State Government to exercise the powers of the Registrar in this behalf ; or

(c) refer the dispute for disposal to one or more arbitrators to be appointed by the Registrar or, in the case of the co-operative societies in the Calcutta Metropolitan Area as defined in the Calcutta Metropolitan Development Authority Act, 1972 (West Ben. Act XI of 1972), to the Court of Arbitrators constituted under section 97.

(2) Subject to the rules, the Registrar may withdraw any dispute transferred or referred under sub-section (1) and may decide it himself or transfer or refer it to any other person or arbitrator or Court of Arbitrators for disposal.

(3) The Registrar may, on the application of any party to a dispute referred to him under sub-section (1) of section 95 and on such terms as he may think fit, make such interlocutory order as he considers necessary.

(4) A person or an arbitrator or a Court of Arbitrators may on the application of any party to the dispute transferred or referred to him or it under sub-section (1) and on such terms as he or it may think fit, make such interlocutory order as may be considered necessary for preservation of any property or right which is the subject matter of the dispute.

(5) A dispute referred to the Registrar under sub-section (1) of section 95 or transferred or referred to any person or arbitrators or arbitrators or the Court of Arbitrators, as the case may be, under sub-section (1) of section 96 shall be decided within six months from the date of receipt thereof by the Registrar.

(6) If the Registrar or the person or the arbitrator or arbitrators or the Court of Arbitrators fails to decide the dispute within the period specified in sub-section (5), he shall submit a report to his or its appointing

authority stating reasons for such failure at least fifteen days before the expiry of the said period and such authority shall allow further time not exceeding six months for disposal of the disputes.

(7) In the case of a dispute relating to recovery of money, the provisions of this section shall apply notwithstanding that any party thereto is punishable for an offence under any law for the time being in force.

97. *Court of Arbitrators.*—For the purpose of disposal of disputes relating to the affairs of the co-operative societies in the Calcutta Metropolitan Area, the State Government may constitute a Court of Arbitrators consisting of a Chief Arbitrator and such number of other arbitrators as may be prescribed, and the Chief Arbitrator and other arbitrators shall be appointed by the State Government from among the officer of the Department of Co-operation of that Government or from among the distinguished co-operators residing within the Calcutta Metropolitan Area.

98. *Force and effects of certain awards.*—Where a dispute involved property pledged as collateral security the person deciding the dispute may make an award which shall have the same force and effect as a final mortgage decree of a civil court having jurisdiction to make such decree.

CHAPTER XII

Winding up and dissolution of co-operative societies

99. *Winding up of co-operative society.*—(1) If, after an audit under section 90 or an inspection under section 92 or an inquiry under section 93 or an application made by not less than three-fourths of the members of any co-operative society, the Registrar is of opinion that the co-operative society should be wound up, he may by order direct it to wound up.

(2) The Registrar may of his own motion, after giving thirty-days' notice in the form prescribed, by order direct the winding up of a co-operative society—

(a) where the co-operative society has not commenced working within twenty-four months from the date of its registration or has ceased to functions for eighteen months ; or

(b) where the number of members of the co-operative society has been reduced to less than the minimum provided in section 13 for the purpose of registration.

(3) The Registrar may, after orders have been issued under sub-section (1) or sub-section (2), consider the reports, if any, of the liquidator appointed under section 100, by order cancel the registration of the co-operative society.

(4) If, however, the Registrar is of opinion that a co-operative society which has been directed to wound up under sub-section (1) or sub-section (2) should continue to function, he may, with the prior approval of the State Government, cancel such order for winding up.

100. *Appointment of liquidator.*—After an order has been issued under sub-section (1) or sub-section (2) of section 99, the Registrar may, in accordance with the rules, appoint a person to be liquidator of the co-operative society in respect of which such order has been issued and fix his remuneration in the manner prescribed and may, if necessary, in the like manner remove such person and appoint another person in his place.

Provided that it shall not be necessary to appoint any liquidator for winding up of a co-operative society which has not commenced working.

101. *Powers and obligation of liquidator*—(1) On the appointment of a liquidator under section 100, all assets, properties, effects and actionable claims of the co-operative society or to which the co-operative society is entitled shall vest in the liquidator.

(2) The liquidator shall from the date of his appointment have power—

(a) to take immediate possession of—

(i) all assets, properties, effects and actionable claims of the co-operative society for to which the co-operative society is entitled,

(ii) all books, records and other documents pertaining to the affairs of the co-operative society ; and

(b) to take, under the general direction and control of the Registrar such steps as may be necessary to prevent loss or deterioration of, or damage to, such assets, properties, effects and actionable claims.

(3) In the event of an order under sub-section (1) or sub-section (2) of section 99 being set aside on appeal, the liquidator shall deliver possession of all assets properties, effects, actionable claims, books, records and other documents referred to in sub-section (2) of this section to the appropriate officer of the co-operative society, provided that anything done, any action taken or any proceeding initiated by the liquidator shall be binding on the co-operative society and such action or proceeding shall be pursued and continued by the officers of the co-operative society.

(4) From the date on which an order under sub-section (1) or sub-section (2) of section 99 takes effect, the liquidator shall, subject to the rules and under any general direction and control of the Registrar have power, so far as is necessary for winding up of the co-operative society on behalf of the co-operative society to carry on its affairs and to do all acts and execute all documents necessary for the purpose of winding up, and in particular, shall exercise such of the following powers, as the Registrar may from time to time direct, namely :—

(a) to institute and defend suits and other legal proceedings ;

(b) to carry on the affairs of the co-operative society so far as may be necessary for the beneficial winding up of the co-operative society ;

(c) to sell any movable property and actionable claim of the co-operative society, in whole or in part, by public auction or by private contract, to any person or body corporate ;

(d) to raise, if required, money on the security of the assets of the co-operative society ;

(e) to make compromise or arrangement with any person between whom and the co-operative society there exist a dispute and to refer such disputes to arbitration ;

(f) to determine the debts due to the co-operative society by a member (including a past member) or the estate, nominees, heirs or legal representative of a deceased member ;

(g) to calculate the costs of liquidation and determine the persons by whom, and the proportions by which, they are to be borne ;

(h) to determine from time to time the contributions, including the items referred to in clause (f) and (g), to be made to the assets of the co-operative society by the members (including past members) or the estates, nominees, heirs or legal representative of deceased members or by the past

or present officers of the co-operative society or by the estates, nominees, heirs or legal representatives of deceased officers ;

(i) to investigate into all claims against the co-operative society and subject to the provisions of this Act, to decide questions of priority arising amongst the claimants ;

(j) to fix the time within which the creditors of the co-operative society shall prove their debts and claims or take steps to be included for the benefit of any distribution that may be made before such debts and claims are proved ;

(k) to pay claims against the co-operative society (including interest up to the date of the order for its winding up) according to their priority in full or rateable as the assets of the co-operative society permit ;

(l) to give such directions as may appear to him to be necessary in regard to the realisation, collection or distribution of assets of the co-operative society ;

(m) to do all acts and, in the name and on behalf of the co-operative society, to execute all deeds and other documents and to grant all receipts as may be necessary for the winding up of the co-operative society ; and

(n) if there is reason to believe that the co-operative society can be reconstructed, to take, with the prior approval of the Registrar, such action as may be necessary for such reconstruction.

(5) The liquidator shall, at such times as may be prescribed but not less than once in a co-operative year, present to the Registrar an account, in the prescribed form, of receipt and payments by him. The Registrar shall cause such account to be audited and, for the purpose of such audit, the liquidator shall furnish the Registrar with such vouchers, documents and information as the Registrar may require.

(6) The liquidator shall pay such fees as the Registrar may direct for the audit of the accounts referred to in sub-section (5).

(7) The liquidator shall cause a summary of the audited accounts to be prepared and shall send a copy of the same to the contributors and creditors.

(8) The by-laws of a co-operative society may provide as to how the surplus assets, if any, shown in the final report of the liquidator of a co-operative society which has been wound up, may be utilised, and the liquidator shall deal with such surplus assets accordingly. If the by-laws of any co-operative society do not contain such provision, the surplus assets as aforesaid shall vest in the liquidator who shall credit such assets to the Co-operative Education Fund.

(9) When a co-operative society has been wound up, the liquidator shall preserve the records of the co-operative society in the prescribed manner and shall make a report thereon to the Registrar

(10) Notwithstanding anything contained elsewhere in this Act or in the rules or by-laws of a co-operative society, the services of all the employees of co-operative society, which has been ordered to be wound up, shall be deemed to have terminated with effect from the date on which the order directing the winding up of the co-operative society takes effect :

Provided that the liquidator may, subject to the approval of the Registrar, re-appoint any such employee in connection with the work of liquidation on such terms and conditions and for such period as he deems fit.

102. Priority of contribution assessed by liquidator.—Notwithstanding anything contained in any law relating to insolvency, the contribution assessed by a liquidator shall rank next to debts due to the State Government or to any local authority in the order of priority in insolvency proceeding.

103. Power of Registrar to cancel registration of co-operative society.—(1) If the Registrar is of opinion that it is not necessary to appoint a liquidator for a co-operative society in respect of which an order for winding up has been issued under sub-section (1) or sub-section (2) of section 99, he shall by order cancel the registration of such co-operative society.

(2) When a liquidator has been appointed by the Registrar under section 103 the Registrar shall consider the report of the liquidator regarding the winding up of co-operative society and shall, if necessary, by order cancel its registration.

(3) After an order has been issued under sub-section (1), or sub-section (2), the co-operative society shall be deemed to have been dissolved and have ceased to exist as a corporate body on and from the date of such order.

CHAPTER XIII

Special provision for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.

104. Payment of prior debts of mortgagor.—(1) When any property is mortgaged to a co-operative land development bank for payment of a prior debt or part thereof a mortgagor, the co-operative land development bank shall, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882 (4 of 1882), by serving a notice in writing in the prescribed manner require any person to whom such debt is due to receive payment of such debt or part thereof from it within such period as may be specified in the notice.

(2) The person on whom a notice is served under sub-section (1) shall be bound to receive payment of the amount tendered by the co-operative land development bank. If there is a disagreement between the mortgagor and such person as regards the amount of the debt, the receipt of the sum tendered by the co-operative land development bank shall not prejudice the right of such person to recover the balance amount of the debt claimed by him.

(3) If any person does not accept the notice served under sub-section (1) or fails to receive payment of the debt or part thereof within the period specified in the notice, the debt or part thereof shall cease to carry interest from the expiry of such period.

105. Procedure for dealing with applications for loan.—Subject to the provisions of section 104 and the rules, a co-operative land development bank shall receive applications for loan made in the prescribed manner and deal with such applications in accordance with the rules before granting the loan.

106. Restriction on transfer of, or charge on, equity of redemption.—Notwithstanding anything contained in any other law for the time being in force a mortgagor shall not be entitled to transfer or create a charge on the property mortgaged to a co-operative land development bank without the concurrence of the co-operative land development bank.

Provided that the co-operative land development bank shall not give its concurrence without the previous sanction of the financing bank :

Provided further that the financing bank shall, if it accords sanction, send a copy thereof to the Trustee, if any, appointed under section 44.

107. *Mortgage not to be questioned on insolvency of mortgagor.*—Notwithstanding anything contained in any law relating to insolvency for the time being in force, a mortgage executed in favour of a co-operative land development bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the co-operative land development bank preference over the creditors of the mortgagor.

108. *Priority of mortgage over certain loans*—A mortgage executed in favour of a co-operative land development bank before or after the commencement of this Act shall have priority over loans of the State Government under the Land Improvement Loans Act, 1883 (19 of 1883), or the Agriculturists' Loans Act, 1884 (12 of 1884.) granted after the execution of the mortgage and over all other registered or unregistered transfers effected on any account.

109. *Constructive borrowing*—(1) Where a co-operative credit society has granted a loan for improvement of any land to any person who, in the opinion of the co-operative credit society, has title to the said land or is in lawful possession thereof and the amount of the loan has been utilised wholly or in part for such improvement, any other person taking such land under a superior title or otherwise shall be liable to repay to the co-operative credit society so much of the loan as established to have been utilised for the improvement of the land as if that other person had executed the *Gehan* under section 53 for such part of the loan and shall be deemed to be the debtor to that extent for the purpose of enforcing the *Gehan* by sale or otherwise.

(2) The *Gehan* executed or deemed to have been executed in favour of, and all other assets charged to a primary co-operative credit society shall be construed to have been charged by the primary co-operative credit society to the central co-operative bank with effect from the date on which it was executed or deemed to have been executed.

(3) The *Gehan* executed or deemed to have been executed in favour of, and all other assets charged or deemed to have been charge to a co-operative land development bank shall be construed to have been charged by the co-operative land development bank to the central co-operative land development bank with effect from the date on which it was executed or deemed to have been executed.

(4) Notwithstanding anything contained in any law for the time being in force, where a co-operative credit society grants loan to its members belonging to scheduled caste or scheduled tribe, or to any other member having restricted rights of alienation of any immovable property such member may create a *Gehan* on such immovable property in favour of the co-operative credit society as security for such loan. If any such member defaults in making repayment of the loan, the co-operative credit society shall, without prejudice to any other remedy available under any law, contract or otherwise, be entitled to take possession of such immovable property and lease the same to any person belonging to the same caste or tribe as the defaulting member belongs to and appropriate the net receipts from the lessee

in repayment of the loan, and the defaulting member, shall not be entitled to recover possession of such immovable property until the loan has been repaid in full.

(5) Before taking possession of any immovable property under sub-section (4), the co-operative credit society shall serve upon the defaulting member a notice of demand in writing for repayment of the outstanding amount of the loan within such period as may be specified in the notice stating that in default of such repayment within such period, the right of possession under sub-section (4) shall be enforced.

110. *Power to distrain and sale.*—(1) If any sum due as an instalment or part of an instalment payable under mortgage in favour of a co-operative land development bank, central co-operative bank or primary co-operative credit society has remained unpaid for more than one month from the date on which it fell due, the bank or the co-operative society, as the case may be, may, in addition to any other remedy available to it, apply to the Registrar for the recovery of such sum by distraint and sale of not more than half the produce of the mortgaged land, including the standing crops thereon.

(2) Upon receipt of such application, and notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), the Registrar may, subject to the provisions of this Act and the rules, take such action as is deemed necessary to distrain and sell the produce or such portion thereof as he thinks fit.

111. *Application of the proceeds of distraint and sale.*—(1) The proceeds of any distraint and sale under section 110 shall be applied as follows :—

(1) First, there shall be paid to the co-operative land development bank or the central co-operative bank or the primary co-operative credit society, as the case may be, at the prescribed rate—

- (a) the costs of the sale ; and
- (b) the other expenses incurred on account of the distraint

(2) Secondly, there shall be paid to the bank or the co-operative society, as the case may be, the distraint the amount for which the distraint was made and there shall be given to the person whose property has been sold a receipt for the amount so paid.

(3) Thirdly, the residue, if any, shall be paid to the person whose property has been sold.

112. *Power to bring mortgaged property to sale and deliver possession in respect of the property sold without the intervention of court.*—(1) Notwithstanding anything contained in any other law for the time being in force, where a power of sale and delivery of possession in respect of the property sold without the intervention of any court, is expressly conferred on a co-operative land development bank or a central co-operative bank or an apex housing society, by a mortgage deed in favour of the bank or the society, as the case may be, if any instalment under such mortgage is not paid in full on the date on which it falls due, the board of directors of the bank or the society, as the case may be, shall, in addition to any other remedy available to it, have the power, subject to the provisions of this Act and the rules, to bring the mortgaged property to sale and to deliver possession of the property sold to the purchaser without the intervention of any court.

113. Right to purchase at sale under this Chapter.—(1) A co-operative land development bank or a central co-operative land development bank or a central co-operative bank or an apex housing society or a co-operative housing society shall be competent to purchase any mortgaged property sold under this Chapter but such property shall be disposed of by such co-operative land development bank or central co-operative bank or apex housing society or a co-operative housing society, as the case may be, by sale within the prescribed period or, where a Trustee has been appointed, within such period as the Trustee may specify in accordance with the rules.

(2) The provisions of sections 14M and 14Q of the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956) shall not apply to land acquired by a co-operative land development bank or central co-operative land development bank or central co-operative bank or apex housing society as the *raiyat* by virtue of purchase under sub-section (1).

114. Title of purchaser not to be questioned.—The title of a purchaser of any property sold under this Chapter shall not be questioned in any court by any mortgagor or his successor-in-interest.

115. Appointment of Receiver.—For the purpose of conduct of sale and delivery of possession of any property sold under this Chapter, the Registrar may, where no Receiver has been appointed by any court in respect of such property, appoint a Receiver in accordance with the provisions of the Transfer of Property Act, 1882 (4 of 1882) and determine his remuneration in the manner prescribed.

116. Power of co-operative land development bank etc, if mortgaged property is destroyed or security becomes insufficient.—(1) If any property mortgaged under this Chapter is destroyed wholly or in part or if the security for any loan is found to be insufficient on valuation in the manner provided in the rules or the by-laws, the mortgagor shall be required on the service of a notice on him in the prescribed manner, to furnish such further security, and within such period, as may be specified in the notice.

(2) If the mortgagor fails to furnish such further security within specified period, the entire amount of the loan together with the interest accrued thereon shall fall due at once and the co-operative land development bank or the central co-operative land development bank or the central co-operative bank or the apex housing society shall, subject to the rules, be entitled to take action for recovery thereof under this Chapter.

Explanation—For the purpose of this section a security shall be deemed to be insufficient if the value of the mortgaged property does not exceed the amount for the time being due on the mortgage by such proportion as may be specified in the rules or the by-laws.

117. Power of Trustee or central co-operative land development bank to direct or to take certain action.—A Trustee and, in the case of a member co-operative society, a central co-operative land development bank may, in accordance with the rules and by order, direct a co-operative land development bank to take action against a defaulter under this Chapter within such period as may be specified in the order. If the co-operative land development bank fails to take such action within the specified period, the Trustee or the central co-operative land development bank, as the case may be, may take such action and the provisions of this Act and the rules or the by-laws shall apply in respect thereto, as if all reference to the co-opera-

tive land development bank were references to the Trustee or the central co-operative land development bank, as the case may be.

118. *Officers of co-operative land development bank, etc., not to bid on personal accounts at sales.*—At any sale of movable or immovable property held under the provisions of this Chapter, no officer of a co-operative land development bank or central co-operative land development bank or central co-operative bank or apex housing society or sale officer or other person having any duty to perform in connection with such sale shall directly or indirectly bid for or acquire or attempt to acquire any interest in such property on his personal account

119. *Exemption from personal attendance*—(1) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908) it shall not be necessary for a Trustee or for any officer of a co-operative land development bank or central co-operative bank or primary co-operative credit society or central co-operative land development bank or apex housing society or of any such class of co-operative societies as may be prescribed to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(2) Where any such instrument is presented for registration, the registering officer may, if he thinks fit, refer to the Trustee or to the officer as aforesaid for any information relating thereto and, on being satisfied about the execution thereof, shall register such instrument.

120. *Powers to co-operative land development bank etc., to receive moneys notwithstanding transfer of mortgage deed to central co-operative land development bank etc.*—(1) Where a co-operative land development bank or a primary co-operative housing society or a primary co-operative credit society advances money on a mortgage, hypothecation, *Gehan* or any other charge out of the funds borrowed, wholly or in part, from the central co-operative land development bank or the apex housing society or a financing bank, as the case may be, such mortgage, hypothecation, *Gehan* or any other charge shall be deemed, with effect from the date of execution thereof, to have been transferred by the co-operative land development bank or the primary co-operative housing society or the primary co-operative credit society to the central co-operative land development bank or the apex housing society or the financing bank, as the case may be, and such mortgage, hypothecation, *Gehan* or any other charge which shall be deemed to have been transferred to the central co-operative land development bank shall be deemed to have been assigned to the Trustee.

(2) Notwithstanding the transfer and assignment of a mortgage, hypothecation, *Gehan* or any other charge as aforesaid,—

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Registrar or a Trustee in accordance with the rules and communicated to the mortgagor or any person liable under a hypothecation or a *Gehan* or any other charge, be payable to the co-operative land development bank, the primary co-operative housing society or the primary co-operative credit society, as the case may be, and such payment shall be valid as if the mortgage had not been so transferred and assigned ; and

(b) the co-operative land development bank, the primary co-operative housing society or the primary co-operative credit society, as the case

may be, shall, in the absence of any such direction communicated to it, be entitled to sue on the mortgage or take any other proceeding for the recovery of moneys due under the mortgage, hypothecation, *Gehan* or any other charge.

121. *Mortgage extended by members of joint Hindu Family.*—(1) Where a mortgage executed before or after the commencement of this Act in favour of a co-operative land development bank is called in question on the ground that it was executed by the manager of a joint Hindu Family for a productive purpose not binding on the members thereof, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force, rest on the person who calls the mortgage in question.

(2) For the purpose of this section, the expression “productive purpose” within the meaning of clause (ii) of the Explanation to clause (12) of section 2 shall be deemed to be a purpose binding on the members (major or minor) of a joint Hindu Family.

122. *Special provisions for co-operative land development bank to apply to branches of central co-operative land development bank*—The special provisions for the co-operative land development bank contained in this Chapter shall apply *mutatis mutandis*, to the branches of the central co-operative land development bank in so far as they perform the functions and discharge the duties of a primary co-operative land development bank.

123. *Provisions of sections 116, 117 and 120 to apply to loans issued against Gehan.*—The provisions of sections 116, 117 and 120 shall apply, *mutatis mutandis*, to loans issued against a *Gehan* or immovable property and hypothecation of assets created with the help of loan.

CHAPTER XIV

Enforcement of obligations and recovery of sums due

124. *Access to documents etc.*—(1) The Registrar and, subject to any restrictions prescribed, an audit officer, arbitrator or any person conducting an inspection or inquiry under Chapter X shall, at all reasonable times, have free access to books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, a co-operative society.

125. *Power to enforce attendance of witnesses and production of documents.*—(1) The Registrar and subject to any restrictions prescribed, a Government officer deputed under section 28 or a committee appointed under section 29 or an administrator appointed under section 30 to manage the affairs of a co-operative society or an audit officer, arbitrator, liquidator or any person conducting an inspection or inquiry under Chapter X shall, in so far as necessary for carrying out any of the purpose of this Act, have power to summon and to enforce the attendance of witnesses and parties concerned and to examine them upon oath and to compel the production of any books, accounts, documents, securities, cash and other properties by the same means and so far as may be in the same manner as provided in the Code of Civil Procedure, 1908 (5 of 1908).

(2) Where any person summoned under sub-section (1) fails or refuses to produce any book, account, document, security, cash or other property specified in the summons, any Metropolitan Magistrate or Judicial Magistrate of first class in whose jurisdiction such person resides shall without prejudice to the penal measure provided in this Act, on a

complaint from the Registrar or any person authorised by him in this behalf, issue a warrant for the production of such book, account, document, security, cash or other property to the Registrar or to such authorised person :

Provided that the person authorised by the Registrar shall not make any complaint under this section without the previous sanction of the Registrar.

126. *Delivery of possession of books, accounts, etc. of co-operative society.*—(1) If the board of a co-operative society or a Government officer deputed under section 28 or an administrator appointed under section 30 or a special officer appointed under section 31 or a liquidator appointed under section 100 is resisted in, or prevented from, taking possession of any books, accounts, documents, securities, cash or other properties of a co-operative society by any person not entitled to be or to remain in possession of the same, the Registrar or any person authorised by him in this behalf may, without prejudice to the penal measures provided in this Act, apply to any Metropolitan Magistrate or Judicial Magistrate of the first class within whose jurisdiction such books, accounts, documents, securities or other properties may lie for seizing and taking possession of the same.

(2) On receipt of an application under sub-section (1), such Metropolitan Magistrate or Judicial Magistrate of the first class, as the case may be, shall authorise any police officer not below the rank of sub-inspector to enter and search any place where such books, accounts, documents, securities, cash or other properties are kept or likely to be kept and to seize and hand over possession of the same to the Registrar or the person authorised by him in this behalf.

127. *Power to direct conditional attachment*—Where it appears to the Registrar that any person or any co-operative society, with intent to defeat or delay the execution of any order that may be made under this Act,

(a) is about to dispose of the whole or any part of his or its property or

(b) is about to remove the whole or any part of his or its property from the local limits of jurisdiction of the Registrar, the Registrar may, by order in writing, direct such person or co-operative society within a time to be fixed by him either to furnish security in such sum as may be specified in the order or to produce and place at the disposal of the Registrar, when required, the said property or the value of the sums or such portion thereof as may be considered sufficient by the Registrar or to show cause why he or it should not furnish such security. The Registrar may also in the order under sub-section (1) direct the conditional attachment of the said property or such portion thereof as he thinks fit. Such attachment shall have the same force and effect as if it has been made by a civil Court and shall continue in force until it is withdrawn or cancelled by the Registrar.

128. *Power to direct payment of dues.*—Notwithstanding anything contained in Chapter XI, the Registrar or any person empowered under the rules may, of his own motion or on the written requisition of a co-operative society or the financing bank for the recovery of any sum due defaulting member (including a deceased member) of a co-operative society, after such inquiry as he may consider necessary or expedient, make an award

directing such member or his surety who may or may not be a member of the co-operative society or the successor of a deceased member to make payment of the amount found to be due

129. *Charge and surcharge.*—(1) Where on an audit under section 90 or an inspection under section 92 or an inquiry under section 93 or an inquiry by a commission constituted under the Commissions of Inquiry Act, 1952 (60 of 1952) or an inquiry by an inquiry Committee constituted by the State Government or a report from the liquidator, it appears to the Registrar that any officer (including a former officer) of any co-operative society has at any time after the commencement of this Act and within six years prior to the date of such audit, inspection, inquiry or report, as the case may be,—

(a) intentionally made or authorised or allowed any payment which is, or may be deemed to be contrary to the provisions of this Act or the rules or the bye laws or any other law for the time being in force, or

(b) by reason of negligence in respect of any prescribed matter involved the co-operative society in any loss or deficiency, or

(c) misappropriated or fraudulently retained any property of the co-operative society or committed criminal breach of trust or forgery or falsification of accounts,

the Registrar may, after giving such officer an opportunity of being heard, by order in writing require such officer to pay such sum to the assets of the co-operative society for making good for the loss sustained by it in direct consequence of the commission or omission specified in this section or to restore such property as the Registrar may think fit and also to pay such sum as the Registrar may fix to meet the cost of any proceeding under this section.

(2) The provisions of this section shall apply notwithstanding that such officer is by reason of his act or omission punishable under any law for the time being in force.

130. *Penalty for certain misdemeanours.*—Where it appears to the Registrar that any person has contravened the provisions of this Act or the rules or the bye-laws—

(a) by sitting or voting as a director of the board of a co-operative society or voting in the affairs of a co-operative society as the representative of another co-operative society which is a member of such co-operative society or exercising the rights of a member of a co-operative society, when such person was not entitled to sit or vote or exercise such rights, as the case may be,

(b) by continuing as an officer of a co-operative society after incurring disqualification thereof,

(c) by utilising a loan for a purpose other than the purpose for which it was granted, or

(d) by not depositing with the financing bank any amount of loan recovered from any member of a co-operative society which the co-operative society or such member is bound to deposit with the financing bank by way of repayment under any agreement or under the rules,

(e) by resisting or preventing the board of a co-operative society or a Government officer deputed under section 28 or an Administrator appointed under section 30 or a Special Officer appointed under section 31 or a liquidator appointed under section 100 or a Government officer deputed

under sub-section (3) of section 30 from taking possession of any books, accounts, documents, securities, cash or other properties of a co-operative society,

(f) by not producing any books, accounts, documents, securities cash or other properties summoned under sub-section (1) of section 125.

the Registrar may subject to the rules and after giving such person an opportunity of being heard, by order in writing direct such person to pay to the assets of the co-operative society by way of penalty such sum as the Registrar thinks fit for each such contravention.

131. Registrar's power to enforce performance of obligations.—Notwithstanding anything contained elsewhere in this Act, when a co-operative society fails to take any action required to be taken by it under this Act or the rules or its by-laws—

(a) within such period as may be specified in this Act or the rules or the by-laws, or

(b) where no such period is specified within such period as the Registrar may, having regard to the nature and extent of the action to be taken specify by notice in writing,

the Registrar may himself or by any person authorised by him in this behalf take such action at the expense of the co-operative society or may call upon any officer of the co-operative society, whom he considers in accordance with the prescribed principles to be responsible for carrying out his direction, and may after, giving such officer an opportunity of being heard, require him to pay to the assets of the co-operative society a sum not exceeding twenty five rupees for each day until his direction are carried out.

132. Recovery of sums due.—Any sum payable to the State Government or to the co-operative society in accordance with any order, decision or award under this Act shall be recoverable in the manner provided in the Second Schedule to this Act or as the decree of a Court under the Code of Civil Procedure 1908 (5 of 1908):

Provided that notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, any sum payable in accordance with an award made under section 128 shall be recoverable—

(a) if the salary or wages of the member of the co-operative society or of his surety exceeds one hundred and fifty rupees per mensem, by attachment of such salary or wages to the extent of the instalment in default or half the difference between such salary or wages and fifty rupees, whichever is less, or

(b) if the salary or wages of the member of the co-operative society or of his surety does not exceed one hundred and fifty rupees, by attachment of such salary or wages to the extent of the instalment in default or six paise in every rupee of such salary or wages, whichever is less.

133. Acts of co-operative society not to be invalidated by certain defects.—

(1) No acts of a co-operative society or its board or any officer or liquidator of such co-operative society done in good faith in connection with the affairs of such co-operative society shall be invalidated by reason only of some defect subsequently discovered in the organisation or in the constitution of the board or in the appointment of such officer or liquidator

or on the ground that such officer or liquidator was disqualified for such appointment

(2) No act done in good faith by any person appointed under this Act shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently made under this Act.

(3) The Registrar shall decide whether any act was done in good faith in connection with the affairs of a co-operative society.

CHAPTER XV

Jurisdiction, appeal and revision

134. *Indemnity and bar to jurisdiction of Courts*—(1) No suit, prosecution or other legal proceeding shall lie against the Registrar or any person authorised by him or against a Trustee in respect of anything done or purported to be done in good faith under this Act.

(2) Save as provided in this Act, no Civil Court or Revenue Court shall have jurisdiction in regard to—

(a) the registration of a co-operative society or its by-laws or an amendment of its by-laws ; or

(b) the dissolution or the supersession of the board of a co-operative society and the management of such co-operative society on such dissolution or supersession ; or

(c) any directive issued by the State Government under section 49 ; or

(d) any dispute referred to the Registrar under section 95 ; or

(e) any matter concerned with the winding up or dissolution of a co-operative society.

(3) While a co-operative society is being wound up, no suit or other legal proceeding relating to the affairs of such co-operative society shall be proceeded with or instituted against the liquidator or such co-operative society or any member thereof except by leave of the Registrar and subject to such conditions as the Registrar may impose.

(4) Save as provided in this Act, no order, decision or award made under this Act shall be challenged, set aside, modified, revised or declared void in any Court on any ground whatsoever except for want of jurisdiction.

135. *Tribunal*—(1) (a) The State Government may by notification constitute one or more co-operative Tribunals. A Tribunal shall consist of such number of persons possessing such qualifications and shall have such jurisdiction as may be prescribed.

(b) When more than one Tribunal is constituted under clause (a), the State Government shall declare by notification one of the Tribunals to be the Principal Tribunal.

(c) A Tribunal shall exercise all the powers conferred upon an Appellate Court by Order XLI in the first Schedule to the Code of Civil Procedure, 1908 (5 of 1908)

(3) Any person aggrieved by an order made by a Tribunal may, within ninety days from the date of such order, apply to such Tribunal for review of such order on one or more of the grounds specified in rule 1 of Order XLVII of the Code of Civil Procedure 1908.

(4) A Tribunal shall not make any order on an application made under sub section (3) without giving the person likely to be affected adver-

sely by such order an opportunity of being heard.

(5) When an appeal or application for review is filed before a Tribunal, it may make, on such terms and conditions as it thinks fit, such interlocutory order as may appear to it to be just and convenient.

(6) A tribunal may hold its sittings at any place within its jurisdiction for the convenience of the parties concerned after previous notice to them and may by regulation lay down its own procedure with the previous approval of the State Government.

136. Appeal.—(1) An appeal shall lie from an order shown in column 2, to the authority shown in column 3, and within the period shown in column 4, of the Third Schedule to this Act

(2) The provisions of the Limitation Act, 1963 (30 of 1953), shall not apply to an appeal referred in sub-section (1).

(3) Save as provided in this Act or the rules, no appeal shall lie against an order, decision or award made under this Act,

(4) An appeal referred to in sub-section (1) shall be decided by the appellate authority (other than the Co-operative Tribunal) within six months from the date of its presentation :

Provided that if the appellate authority fails to decide an appeal within the aforesaid period, it shall submit a report to the State Government before the expiry of the said period, stating reasons for its failure, and the State Government may allow it such further time as it thinks fit for decision of such appeal.

137. Review and revision.—(1) The State Government may, of its own motion or on an application made in the prescribed manner by any person aggrieved, call for and examine the records of any inquiry held or inspection made under this Act or the proceedings of the Registrar or of any person subordinate to him or acting on the authority of the Registrar and may make thereon such orders as it thinks fit after serving notices to persons likely to be affected by such orders.

(2) The Registrar may, of his own motion or on an application made in the prescribed manner by any person aggrieved,—

(a) revise any order made by himself, or

(b) call for and examine the records of an inquiry held or inspection made under this Act or the proceedings of any person subordinate to him not vested with the powers of the Registrar or acting on his authority, and if he is of opinion that any order, decision or award or any proceeding so called for should be for any reason modified, annulled or reversed, he may make such orders thereon as he thinks fit :

Provided that the Registrar shall, before he makes an order under clause (a) or clause (b), give any person likely to be affected adversely by such order an opportunity of being heard.

(3) Nothing contained in sub-section (1) or sub-section (2) shall apply to any proceeding in which an appeal lies to the Tribunal under section 136.

CHAPTER XVI

Offences, penalties and procedure

138. Offences and penalties.—In addition to the penalties specified in sub-section (3) of section 147, any person mentioned in column 3 and guilty of an offence shown in column 2 of the Fourth Schedule to this Act shall, notwithstanding anything contained elsewhere in this Act or any other law for the time being in force be liable on conviction to the penalty shown in

column 4 of the said Schedule

139. Cognizance of offences.—(1) No Court inferior to the court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(2) For the purpose of the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under section 403 of the Indian Penal Code (43 of 1960) in respect of any movable property of a co-operative society shall be cognizable.

(5) A prosecution under this Act shall be instituted by the Registrar or any person authorised by him in this behalf and all expenses for a prosecution instituted on the request of a co-operative society shall be borne by recoverable from such co-operative society.

140. Presumption raised by entry in register of members.—(1) A register of members or shares maintained by co-operative society in the prescribed manner shall be *prima facie* evidence of—

(a) the date on which the name of any person has been entered in such register as a member of such co-operative society, and

(b) the date on which any such person has ceased to be a member of such co-operative society.

(2) If for any person the registers of members or shares is not available, the detailed list of members with share holding enclosed with the audit report, if any, shall be treated as *prima facie* evidence of membership as on the date the balance sheet is drawn-up.

141. Proof of entry in book of co-operative society.—(1) A copy of entry in a book of a co-operative society regularly kept in the course of its business and in the prescribed manner shall, if certified in the prescribed manner, be accepted in any suit or legal proceeding as a *prima facie* evidence of the existence of such entry in such book and shall be admitted as evidence of the matters, transaction and accounts therein recorded in every case where, and to the same extent as, the original entry is admissible.

(2) No officer or liquidator of a co-operative society or no other officer in whose custody the books and other records of co-operative society have been kept after the co-operative society has been wound up shall, in any legal proceeding to which the co-operative society or the liquidator thereof is not a party, be compelled to produce any such books or other records the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions or accounts therein recorded unless he is specifically so directed by order of the Court or the Registrar or an Arbitrator.

142. Punishment for corrupt practices.—Any officer or employee or member of a co-operative society who—

(a) sanctions or receives, as the case may be, any *benami* loan, or

(b) accept or obtains or induces to accept or attempts to obtain from any person for himself or for any other person any gratification as a motive on reward as is mentioned in section 161 of the Indian Penal Code (45 of 1960), or

(c) signs the minutes of any meeting of the co-operative society

without attending such meeting, or

(d) dishonestly or fraudulently misappropriates or otherwise convert for his own use any property of the co-operative society entrusted to him or under his control or allows any other person so to do, shall be guilty of corrupt practices and shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to two years and shall also be liable to fine :

Provided that the Court may, for any special reason to be recorded in writing, impose a sentence of imprisonment of less than one year.

CHAPTER XVII

Miscellaneous

143. *Overriding effect of the Act.*—This Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract express or implied or in any instrument having effect by virtue of any enactment.

144. *Insurance of co-operative society*—Such co-operative societies as may be prescribed shall get themselves insured within such time and in such manner as may be prescribed.

145. *Insured co-operative bank*—Notwithstanding anything contained elsewhere in this Act, the Registrar shall not take any action under this Act in respect of an insured co-operative bank without obtaining previous sanction of the Reserve Bank of India and without compliance with the requirements of the Deposit Insurance Corporation Act, 1961 (47 of 1961).

Explanation.—“Insured co-operative bank” shall mean a co-operative bank which is an insured bank within the meaning of clause (1) of section 2 of the Deposit Insurance Corporation Act, 1961.

146. *Power to add to the Fifth Schedule*—The State Government may, with the approval of the Central Government, by notification, add to the Fifth Schedule any other co-operative society and thereupon the Schedule shall be deemed to be amended accordingly.

147. *Power to make rules.*—(1) The State Government may, after previous publication in the Official Gazette, make rules for carrying out the purposes of this Act for the whole or any part of West Bengal or for any co-operative society or class of co-operative societies :

Provided that any such rules may be made without previous publication if the State Government is of opinion that in the public interest such rules should be brought into force at once.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or are required to be, prescribed or made by rules

(3) Any rule made under this Act may provide that any person committing a breach thereof shall conviction by a Court be punishable with fine which may extend to five hundred rupees and, when the breach is a continuing one, with a further fine which may extend to ten rupees per day for so long as the breach continues after such conviction.

(4) All rules made under this Act shall be laid before the State Legislature for not less than fourteen days as soon as they are made and shall be subject to such modification, if any, whether by way of repeal or amendment, as the State Legislature may make during the session in which they are laid or the session immediately following.

(5) Any modification in the rules made by the State Legislature under sub-section (4) shall be published by the State Government by noti-

fication and shall, unless some latter date is specified in the notification, come into force on the date of the notification.

FIRST SCHEDULE
Power exclusively exercisable by the Registrar
(See section 10)

Serial No.	Section	Power
1	2	3
1. Sub-section (1) of section 47	...	To sanction granting of loan by a co-operative society to another co-operative society which is not its member.
2. Sub-section () of section 129	...	To require any officer (including a former officer) to pay to the assets of the co-operative society for making good the loss sustained by it in direct consequences of the commission or omission specified, or to restore any property misappropriated or fraudulently retained and to pay the cost of any proceeding under this section.
3. Section 130	...	To impose penalties for certain contravention of the provisions of this Act or the rules or the by laws.
4. Sub-section (3) of section 134	..	To give leave and impose conditions for proceeding with or instituting any suit or other legal proceeding against a liquidator or a co-operative society or a member thereof.
5. Sub-section (3) of section 139	..	To sanction the institution of any prosecution under this Act.

SECOND SCHEDULE
Recovery of sums due
(See section 132)

Serial No.	Nature of sums due	Method of recovery
1	2	3
1. Audit fee payable under sub-section (1), and the expenses for completing the accounts payable under sub-section (5) of section 90.		By the Certificate Officer as a public demand upon requisition by the Registrar or with his approval by the audit officer.
2. Cost of inspection or inquiry apportioned under section 94.		By the Collector as a public demand upon requisition by the Registrar.

3. Sums payable by an order under section 94.

By the Certificate Officer as a public demand upon requisition by the co-operative society or the Registrar or by and Civil Court having jurisdiction in the same manner as a decree of such court upon application by the co-operative society.

... Ditto

4. Sums payable by an award under section 96

5. Sums assessed by a liquidator as contributions under section 99.

By the Certificate Officer as a public demand upon requisition by the liquidator.

6. Dues payable by a member or his surety or successor of a deceased member under section 128.

By the certificate Officer as a public demand upon requisition by the Registrar or by any person authorised by him or by the co-operative society.

7. Sums payable by an officer (including a former officer) of co-operative society under section 129.

By the Certificate Officer as a public demand upon requisition by the Registrar.

8. Sums payable under section 130 by a person for certain contravention of the provisions of this Act or the rules or the by-laws.

Ditto.

9. Expenses incurred and the sum payable under section 131.

Ditto,

10. Sums due under any rule made under this Act.

In the prescribed manner.

THIRD SCHEDULE

Appeals

(See section 136)

Serial No.	Appeal lies against	By whom appeal may be preferred	Authority to whom appeal shall lie.	Period of limitation
1	2	3	4	5
1.	A final order of division or transfer of assets and liabilities of a co-operative society under section 19.	Any member of the co-operative society.	To the Co-operative Tribunal having jurisdiction.	Two months from the date on which the order is communicated.
2.	A final order of amalgamation or reorganisation of co-operative societies under section 20.	Ditto.	Ditto.	Ditto.
3.	An order for dissolution of	Any director of the board.	Ditto.	Ditto.

1	2	3	4	5
	a board of directors or disqualification of directors thereof under section 29.			
4.	An order dissolving a board and appointing administrator under section 30.	Ditto.	Ditto.	Ditto.
5.	An entry in or omission from the statement prepared for levy of water rate or embankment protection rate under section 56.	Any person aggrieved.	To the Collector.	One month from the date of publication of the statement.
6.	Assessment of water rate or embankment protection rate under section 56.	Any person aggrieved.	To the Registrar.	One month from the date of assessment.
7.	Any refusal by a co-operative society to admit an applicant as member under subsection (4) of section 70.	Any applicant aggrieved.	Ditto.	Such period as may be prescribed
8.	An order for apportionment of cost under section 94.	Any person aggrieved.	To the State Government.	One month from the date on which the order is communicated.
9.	An order of the Registrar in an appeal under subsection (9) of section 85.	The appellant.	To the Co-operative Tribunal.	Within 90 days from the date of order or from the date on which the appellant gets knowledge of the order whichever is earlier.

Serial No	Appeal lies against	By whom appeal may be preferred
1	2	3
10	A decision or order of a co-operative society on an application under section 89.	Any applicant aggrieved.
11	An order, decision on award under section 96.	Any person aggrieved.
12	An award under section 38	Any person aggrieved
13	An order for winding up of a co-operative society under section 99	Any member of the co-operative society
14	An order, decision or award of a liquidator under section 101	By the person aggrieved
15	An order under section 129 for payment of compensation or restoration of property	Any person aggrieved
16	An order under section 130 for payment by way of penalty	Ditto
17	An order under section 131 for payment of fine	Ditto
18	Any other order or decision declared by rules as appealable	Any person declared by rules to be competent
Authority to whom appeal shall lie		Period of limitation
4		5
10.	To the Tribunal.	Within 90 days (1) from the date on which the decision or order is communicated to the applicant or, (2) if the decision or order is not so communicated, from the date on which the applicant gets knowledge of the decision or order, or (3) from the date on which the period of one month under section 89 expires if no decision is taken or any order is passed on the application.
11.	To the Co-operative Tribunal having jurisdiction.	One month from the date on which the order, decision or award is communicated.
12.	To the Co-operative Tribunal having jurisdiction	One month from the date on which the award is communicated.
13.	Ditto	To months from the date on which the order is communicated.

4		5	
14.	To the Registrar	Two months from the date on which the order, decision or award is communicated.	
15.	To the Co-operative Tribunal having jurisdiction	Two months from the date on which the order is communicated.	
16.	To the Co-operative Tribunal having jurisdiction.	Two months from the date on which the order is communicated.	
17.	Ditto	Ditto	
18.	To be prescribed authority	Such period as may be prescribed.	

FOURTH SCHEDULE
Offences and penalties
(See section 138)

Sl No. 1	Offence 2	Person liable 3	Penalty 4
1	Unauthorised use of the word "co-operative" or its equivalent in contravention of section 6	Any company, co-operative society or person	Fine which may extend to fifty rupees and in the case of a continuing offence a further fine of five rupees for each day for so long as it continues after conviction.
2	Wilfully making false return or furnishing false information required to be made or furnished under this Act or the rules	Any person making such return or furnishing such information	Imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both.
3	Transfer of any property without previous permission of a co-operative society on which it holds a first charge under sec. 51	Person by whom or on whose behalf the property is transferred	Fine which may extend to the value of the property or five hundred rupees which is more.
4	Transfer of any property on which a charge has been created under clause (a) of section 52 in contravention of clause (c) of that section	Ditto	Ditto
5	Failure to make deduction and payment under section 58 in satisfaction of debt due to a co-operative society from a member	The employer of the member	Imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees or both and in the case of a continuing offence a further fine

1	2	3	4
			which may extend to one hundred rupees for each day for so long as it continues after conviction.
6	Wilful neglect or refusal to comply with any lawful order or direction given by the Registrar or the State Government under this Act.	Any person so neglecting or refusing	Imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both
7.	Wilful neglect or refusal to do any act, make any return or furnish any information required to be done, made or furnished under this Act or the rules	Ditto	Imprisonment for a term which may extend to three months or fine which may extend to five hundred rupees or both and in the case of a continuing offence a further fine of fifty rupees for each day for so long as it continues after conviction.
8	Any act or omission declared by the rules to be an offence	The person committing the act or omission	Such penalty as may be provided in the rules-

FIFTH SCHEDULE

Co-operative Societies

[See section 31(a)]

Serial No.	Name of Co-operative Society
1	2
1	Apex Society.
2	Central Co-operative Bank.
3	Central Co-operative Land Development Bank.
4	Central Society.
5	Co-operative Land Development Bank.
6	Primary Co-operative Bank.
7	State Co-operative Bank.

THE WEST BENGAL PRIMARY EDUCATION (AMENDMENT)
ACT, 1983.

The following Act of the West Bengal Legislature, having been assented to by the President, was published in the *Calcutta Gazette (Ext.)*, Part III, dated 17th May, 1985.

WEST BENGAL ACT XLVII OF 1983

An Act to amend the West Bengal Primary Education Act, 1973.

Whereas it is expedient to amend the West Bengal Primary Education Act 1973 (West Ben Act, XLIII of 1971) for the purpose and in the manner hereinafter appearing;

It is hereby enacted in the Thirty-fourth Year of the Republic of India by the Legislature of West Bengal as follows:—

1. *Short title.*—This Act may be called the West Bengal Primary Education (Amendment) Act, 1983.

2. *Amendment of section 2 of West Bengal Act XLIII of 1973.*—In section 2 of the West Bengal Primary Education Act, 1973,—

(1) in clause (xviii), after the words “under this Act”, the words “and includes a junior Basic school” shall be added;

(2) after clause (xxi), the following clause shall be inserted:—

(xxia) “teacher means a person who holds a teaching post in a primary school or in a Junior Basic Training Institution on a regular and whole-time basis and is paid either wholly or in part from the funds under the Control of the State Government in the Education Department”;

THE KALYANI UNIVERSITY (AMENDMENT) ACT, 1985.

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette (Ext.)*, Part III, dated 20th April 1985

WEST BENGAL ACT VII OF 1985.

An Act to amend the Kalyani University Act, 1981.

Whereas it is expedient to amend the Kalyani University Act, 1981, (West Bengal Act XL of 1981) for the purpose and in the manner hereinafter appearing;

It is hereby enacted in the Thirty-sixth Year of the Republic of India by the Legislature of West Bengal, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kalyani University (Amendment) Act, 1985.

(2) It shall be deemed to have come into force on the 20th day of December, 1984.

2. *Amendment of section 55 of West Bengal Act XL of 1981.*—In section 55 of the Kalyani University Act, 1981, (hereinafter referred to as the principal Act), in sub-section (4),—

(1) in clause (a), for the words “not exceeding one year” the word “not exceeding eighteen months” shall be substituted and shall be deemed always to have been substituted;

(2) in clause (b), for the words “not exceeding one year”, the word “not exceeding eighteen months” shall be substituted and shall be deemed always to have been substituted.

3. *Repeal and saving*—(1) The Kalyani University (Amendment) Ordinance, 1984 (West Bengal Ordinance XI of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the Kalyani University (Amendment) Ordinance, 1984 shall be deemed to have been validly done or taken under the principal Act as amended by this Act.

THE TAXES ON ENTRY OF GOODS INTO CALCUTTA METROPOLITAN AREA (AMENDMENT) ACT, 1985.

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette, Extraordinary*, Part III, dated 16th May, 1985

WEST BENGAL ACT NO. X OF 1985.

An Act to amend the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972.

Whereas it is expedient to amend the Taxes on Entry on goods into Calcutta Metropolitan Area Act, 1972 (West Ben. Act V of 1972), for the purpose and in the manner hereinafter appearing ;

And whereas previous sanction of the President under the proviso to clause (b) of article 304 of the Constitution of India has been obtained :

It is hereby enacted in the Thirty-sixth Year of the Republic of India, by the Legislature of the West Bengal, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Taxes on Entry of Goods into Calcutta Metropolitan Area (Amendment) Act, 1985.**

(2) It shall come into force on such as the State Government may, by notification in the Official Gazette, appoint.

2. *Amendment of the Schedule to West Bengal Act V of 1972.*—In the Schedule to the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972

(a) in Sl. No. 17, in column (3) against item (a), for the figure and words “2 paise per litre”, the figure and words “2 per cent ad velorem”, shall be substituted ;

(b) in Sl. No. 57, in column (3) against item (b), for the word “Ditto”, the figure and words “3 per cent ad velorem”, shall be substituted.

THE WEST BENGAL APPROPRIATION (EXCESS EXPENDITURE 1974-75, 1975-76, 1976-77 AND 1977-78) ACT, 1985.

The following Act of the West Bengal Legislature, having been assented to by the Governor was published in the *Calcutta Gazette, Extraordinary*, Part III, dated 4th June, 1985.

WEST BENGAL ACT XI OF 1985.

An Act to regularise payment and appropriation of certain further sums from and out of the Consolidated Fund of West Bengal for the services and purposes of the year ending on the thirty-first day of March, 1975, the year ending on the thirty-first day of March, 1976, the year ending on the thirty-first day of March, 1977 and the year ending on the thirty-first day of March, 1978.

It is hereby enacted in the Thirty-sixth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. *Short title.*—This Act may be called the **West Bengal Appropriation (Excess Expenditure, 1974-75, 1975-76, 1976-77 and 1977-78) Act, 1985.**

(Text omitted)

THE RABINDRA BHARATI (AMENDMENT) ACT, 1985]

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette, Extraordinary*, Part III, dated 6th June, 1985.

Whereas it is expedient to amend the Rabindra Bharati Act, 1981 (West Bengal Act XXXVI of 1981), for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Thirty-sixth Year of the Republic of India, by the Legislature of West Bengal, as following :—

1. *Short title.*—This Act may be called the **Ravindra Bharati (Amendment) Act, 1985.**

2. *Amendment of section 2 of West Bengal Act XXXVI of 1981.*—In section 2 of the Rabindra Bharati Act, 1981,—

(a) for clause (21), the following clause shall be substituted :—

“(21) “Teacher” means a Principal, Professor, Assistant, Professor, Reader, Lecturer, Demonstrator, Tutor, Inspector, Accompanist or any other person, either whole-time or part-time, imparting instruction or conducting research or assisting in the teaching of music or dance by providing instrumental or vocal accompaniment, in the University or in any college, institution or centre affiliated to the University’ ;

(b) for clause (22), the following clause shall be substituted :—

“(22) “Teacher of the University” means a professor, Reader, Lecturer, Accompanist or any other person, appointed or recognized as such by the University, either whole-time or part-time, for the purpose of imparting instruction or conducting research or assisting in the teaching of music or dance by providing instrumental or vocal accompaniment, in the University’ ;

THE BENGAL (RURAL PRIMARY EDUCATION (AMENDMENT) ACT, 1985

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette (Ext.)*, Part III, dated 10th June, 1985.

WEST BENGAL ACT XIII OF 1985

Whereas it is expedient to amend the Bengal (Rural) Primary Education Act, 1930 (Ben. Act VII of 1983), for the purposes and in the manner herein after appearing)

It is hereby enacted in the Thirty-sixth Year of the Republic of India by the Legislature of West Bengal, as follows :—

1. *Short title.*—This Act may be called the **Bengal (Rural) Primary Education (Amendment) Act, 1985.**

2. *Amendment of section 2 of Bengal Act VII of 1930.*—In section 2 of the Bengal (Rural) Primary Education Act, 1930 (hereinafter referred to as the principal Act),—

(a) in clause (5), for the words “Director of Public Instruction”, the words “Director of Education”, shall be substituted ;

(b) in clause (8), for the words “Director of Public Instruction”, the words “Director of School Education ;” shall be substituted.

3. *Amendment of section 4* —In section 4 of the principal Act,—

(a) In clause (a) of sub-section (1), for the words “Director of Public Instruction” the words “Director of School Education” shall be substituted;

(b) in sub-section (3), for the “Director of Public Instruction”, the words “Director of School Education”, shall be substituted ;

4. *Amendment of section 23.*—In sub-section (1) of section 23 of the principal Act,—

(a) in clause (1), for the words “Director of Public Instruction” the words “Director of School Education” shall be substituted ;

(b) in clause (m), for the words “Director of Public Instruction” the words “Director of School Education” shall be substituted ;

5. *Amendment of section 24.*—In section 24 of the principal Act,—

(a) in clause (i), for the words “Director of Public Instruction”, the words “Director of School Education”, shall be substituted ;

(b) in clause (ii), for the words “Director of Public Instruction”, the words “Director of School Education”, shall be substituted.

6. *Amendment of section 25.*—In section 25 of the principal Act, for the words “Director of Public Instruction”, the words “Director of School Education” shall be substituted.

7. *Amendment of section 40.*—In sub-section (1) of section 40 of the principal Act, for the words “Director of Public Instruction”, the words “Director of School Education” shall be substituted.

8. *Amendment of section 50.*—In section 50 of the principal Act, for the words “Director of Public Instruction” the words “Director of School Education” shall be substituted.

9. *Amendment of section 54.*—In sub-section (3) of the principal Act, for the words “Director of Public Instruction” the words “Director of School Education” shall be substituted.

10. *Amendment of section 55.*—In sub-section (3) of section 55 of the principal Act, for the words “Director of Public Instruction”, the words “Director of School Education” shall be substituted.

THE WEST BENGAL LOCAL BODIES (ELECTORAL OFFENCES AND MISCELLANEOUS PROVISIONS) (AMENDMENT) ACT, 1984.

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette (Ext)*, Part III, dated 22nd October, 1984.

WEST BENGAL ACT XXVI OF 1984

An Act to amend the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952.

Whereas it is expedient to amend the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act 1952, (West Ben. Act X of 1952) for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India by the Legislature of West Bengal, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 25th day of June 1984.

2. *Amendment of section 2 of West Bengal Act X of 1952.*—In section 2 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous

Provisions) Act 1952 (hereinafter referred to as the principal Act), for clause (a) the following clause shall be substituted :—

“(a) “election” means an election to fill a seat of a Councillor of the Calcutta Municipal Corporation under the Calcutta Municipal Corporation Act 1980, (West Bengal Act LIX of 1980) or an election to fill a seat of a Councillor of Howrah Municipal Corporation under the Howrah Municipal Corporation Act 1980 (West Bengal Act LVIII of 1980), or an election to fill a seat of a Commissioner of a municipality under the Bengal Municipal Act, 1932 (Bengal Act XV of 1932) or an election to fill a seat of a Councillor of the Municipal Corporation of Chandernagore under the Chandernagore Municipal Act, 1955 (West Bengal Act XVIII of 1955) and’.

3 *Amendment of section 9.*—In section 9 of the principal Act,—

(a) the words and figures “in rule 4 of Part II of the Fourth Schedule to the Bengal Local Self-Government Act of 1885 (Bengal Act III of 1885) or in rule 4 of Part II of Schedule II to the Calcutta Municipal Act, 1923, (Bengal Act III of 1923) or” shall be omitted ;

(b) for the words and figures “in rule 4 of Part II of Schedule II to the Calcutta Municipal Act, 1951 (West Bengal Act XXXIII of 1951)”, the words and figures “in rule 4 of Part II of Schedule III to the Calcutta Municipal Corporation Act 1980 (West Bengal Act LIX of 1980)”, shall be substituted.

4. *Amendment of section 10.*—In sub-section (3) of section 10 of the principal Act for the words and figures “the Bengal Local Self-Government Act 1885 (Bengal Act III of 1885) or the Calcutta Municipal Act, 1923, (Bengal Act III of 1923) or the Bengal Municipal Act, 1932 (Bengal Act XV of 1932) or the Calcutta Municipal Act 1951 (West Bengal Act XXXIII of 1951)” the words and figures “the Bengal Municipal Act 1932, (Bengal Act XV of 1932) or the Calcutta Municipal Corporation Act, 1980 (West Bengal Act LIX of 1980) or the Howrah Municipal Corporation Act 80 (West Bengal Act LVIII of 1980),” shall be substituted.

5. *Amendment of section 12.*—In sub-section (3) of section 12 of the principal Act for the words and figures “the Bengal Local Self-Government Act of 1885 (Bengal Act III of 1885) or the Calcutta Municipal Act, 1923, (Bengal Act III of 1923) or the Bengal Municipal Act, 1932, (Bengal Act XV of 1932) or the Calcutta Municipal Act 1951 (West Bengal Act XXXIII of 1951)” the words and figures “the Bengal Municipal Act, 1932, (Bengal Act XV of 1932) or the Calcutta Municipal Corporation Act 1980 (West Bengal Act LIX of 1980) or the Howrah Municipal Corporation Act 1980 (West Bengal Act LVIII of 1980)” shall be substituted.

6. *Amendment of Section 13.*—In section 13 of the principal Act, in section (2),—

(1) in clause (a), the words and figures “under the Bengal Local Government Act of 1885 (Bengal Act III of 1885) or” shall be omitted

(2) in clause (b),—

(a) for the words and figures “the Calcutta Municipal Act 1923 (Bengal Act III of 1923) or the Calcutta Municipal Act, 1951 (West Bengal Act XXXIII of 1951)” the words and figures “the Calcutta Municipal

Corporation Act 1980 (West Bengal Act LIX of 1980) or the Howrah Municipal Corporation Act, 1980 (West Bengal Act LVIII of 1980)," shall be substituted,

(b) in sub-clause (i), after the words "Registering Authority", the words "or election authority" shall be inserted,

(c) in sub-clause (ii), after the words "Registering Authority", the words "or election authority" shall be inserted.

(d) in sub-clause (iii), after the words "the election Officer", the words "or election authority" shall be inserted.

7. *Repeal and saving.*—(1) The West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Ordinance, 1984 (West Bengal Ord. VI of 1984) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provision) (Amendment) Ordinance, 1984 shall be deemed to have been validly done or taken under the principal Act as amended by this Act.

THE NORTH BENGAL UNIVERSITY (AMENDMENT) ACT, 1984

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette, Extraordinary*, Part, III dated, the 24th October, 1984.

WEST BENGAL ACT XXVIII OF 1985

An Act to amend the North Bengal University Act, 1981.

Whereas it is expedient to amend the North Bengal University Act, 1981, (West Ben. Act XXV of 1981), for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the North Bengal University (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 11th day of September, 1984.

2. *Amendment of section 57 of West Ben. Act XXV of 1981.*—In section 57 of the North Bengal University Act, 1981 (hereinafter referred to as the principal Act), in sub-section (4),—

(1) in clause (a) for the words "not exceeding one year" the words "not exceeding eighteen months" shall be substituted and shall be deemed always to have been substituted;

(2) in clause (b), for the words "not exceeding one year" the words "not exceeding eighteen months", shall be substituted and shall be deemed always to have been substituted.

3. *Repeal and saving.*—(1) The North Bengal University (Amendment) Ordinance, 1984 (West Ben. Ord. X of 1984.) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken

under the principal Act as amended by the North Bengal University (Amendment) Ordinance, 1984 shall be deemed to have been validly done or taken under the principal Act as amended by this Act.

THE TAXES ON ENTRY OF GOODS INTO CALCUTTA METROPOLITAN AREA (AMENDMENT) ACT, 1984

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette (Ext.)*, Part III, dated the 21st November, 1984.

WEST BENGAL ACT XXXVI OF 1984

An Act to amend the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972.

Whereas it is expedient to amend the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 (West Ben. Act. V of 1972) for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Taxes on Entry of Goods into Calcutta Metropolitan Area (Amendment) Act, 1984.**

(2) It shall be deemed to have come into force on the 4th day of January, 1984.

2. *Amendment of section 12 of West Ben. Act V of 1972.*—In the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, in sub-section (2) of section 12.—

(1) in the first proviso,—

(i) for clause (a), the following clause shall be substituted :—

“(a) in the case of the Calcutta Municipal Corporation, twenty-eight per cent.”

(ii) in clause (b),—

(a) for the words “Corporation of Calcutta”, the words “Calcutta Municipal Corporation” shall be substituted,

(b) for the words “seventeen per cent.”, the words “fourteen per cent.” shall be substituted ;

(2) in the second proviso, for the words “Corporation of Calcutta” the words “Calcutta Municipal Corporation” shall be substituted.

THE WEST BENGAL CESS (AMENDMENT) ACT, 1984

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette (Ext.)*, Part III, dated 12th November, 1984.

WEST BENGAL ACT XXXII OF 1984

An Act to amend the Cess Act, 1880

Whereas it is expedient to amend the Cess Act, 1880 (Ben. Act IX of 1880), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. *Short title.*—This Act may be called the **West Bengal Cess (Amendment) Act, 1984.**

2. *Amendment of section 4 of Ben. Act IX of 1880.*—In section 4 of the

Cess Act, 1880 (hereinafter referred to as the principal Act), for the definition of "despatch", the following definition shall be substituted :—

"despatch" in relation to a coal mine, means the quantity of coke and coal despatched from the coal mine and that, in relation to other mines and quarries including sand quarries, means the quantity of minerals/sand despatched from such mine or quarry ;"

3. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) for clause (b), the following clause shall be substituted :—

"(b) in respect of all mines and quarries, on the annual despatches therefrom, and",

(b) in clause (c), the words "mines other than coal mines, quarries" shall be omitted,

(c) for sub-clause (i) of clause (2) of the proviso, the following sub-clause shall be substituted :—

"(i) fifty paise on each tonne of coal, minerals or sand of such annual despatches, and".

4. *Amendment of section 72.*—In section 72 of the principal Act,—

(a) for the words "in the case of coal mines", the words "in the case of all mines and quarries" shall be substituted ;

(b) for the words "in the case of a coal mine, of the annual despatches from such coal mine", the words "in the case of all mines and quarries, of the annual despatches from such mines and quarries" shall be substituted,

5. *Amendment of section 76.*—In clause (a) of section 76 of the principal Act, for the words "in the case of a coal mine", the words "in the case of all mines and quarries" shall be substituted.

6. *Amendment of Schedule E*—In Schedule E to the principal Act,—

(1) for "Form No. 1", the following form shall be substituted :—

"FORM NO. I

Form of notice under section 72 in respect of all mines and quarries
District of

Notice under section 72 of the Cess Act, 1880.

The Owner, Chief Agent, Manager or Occupier of the.....
..... situated (give the designation of the mine
or the quarry) in the district of is required
to lodge in the office of the Collector of the district of..... a
return in the form hereunto annexed showing the despatches of coal/
mineral/sand from..... calculated
respectively on the average of the despatches of the last three years for
which accounts have been made up. Such return must be signed by him
or his authorised agent, and be so lodged within the space of two months
from the service of this notice under penalty of a daily fine which may
amount to not more than fifty rupees (payable by each such owner, chief
agent, manager or occupier) for every day after the expiry of such time or
of any extended time which may be allowed by the Collector, on application
made to him, until such return shall be lodged or until the annual des-
patches of coal/minerals/sand from the mine/quarry in respect of which
this notice is served, shall have been otherwise ascertained and determined
by the Collector.

Collector.

Annexed form of return

District..... Year.....
 Details of yearly despatches from the mines/quarry in the possession or under the control of the person submitting the return :—

District	Pargana	Name of holder or Manager	Annual despatches per annum in tonnes on the average of the last three years for which accounts have been made up.					Remarks
in which the mine quarry lies			Coal	Tonnage of coke despatched	Tonnage in terms of coal	Tonnage in terms of minerals and	Total despatches to be assessed	
1	2	3	4	5	6	7	8	9

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signature.

N. B.—This return must be signed by the Owner, Chief Agent, Manager or Occupier.”;

(2) in Form No II,—

(i) for the heading, the following heading shall be substituted :—

“FORM No. II

Form of notice under section 72 in respect of properties other than mines and quarries.”

(ii) for the words “in respect of properties other than coal mines”, the words “in respect of properties other than mines and quarries” shall be substituted. and

(iii) in the “Annexed form of Return”, the words “mines, quarries” shall be omitted.

THE INDIAN ELECTRICITY (WEST BENGAL AMENDMENT) ACT 1984.

The following Act of the West Bengal Legislature, having been assented to by the President, was published in the *Calcutta Gazette, Extraordinary*, Part III, dated of the 26th December, 1984.

WEST BENGAL ACT XXXIX OF 1984

An Act to amend the Indian Electricity Act, 1910, in its application to West Bengal

Whereas it is expedient to amend the Indian Electricity Act, 1910 (9 of 1910), in its application to West Bengal, for the purpose and in the manner hereinafter appearing;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. *Short title.*—This Act may be called the Indian Electricity (West Bengal Amendment) Act, 1984.

2. *Application of the Act.*—The Indian Electricity Act, 1910 (hereinafter referred to as the principal Act) shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided.

3. *Amendment of section 7B of Act 9 of 1919.*—In section 7B of the principal Act,—

(1) after sub-section (7), the following sub-sections shall be inserted :—

“(7a) If the licensee fails to submit within the period specified in the notification under sub-section (4) or such extended period as may be notified by the State Government in this behalf the statement referred to in sub-section (4), the purchaser or the intending purchaser shall be free to call upon the employees of the licensee to submit such statement supported by such documents and papers as may be available with the employees within such period or such extended period as may be notified by the State Government in this behalf. The statement furnished by the employees to the purchaser or the intending purchaser on their own with necessary documents and papers in support thereof shall be deemed to be a valid statement for the purpose of this sub-section.

(7b) On receipt of the statement referred to in sub-section (7a) the purchaser or the intending purchaser shall deliver a copy of the said statement to the licensee who may submit his objection to the statement, if any, within such period or such extended period as may be specified by the State Government in this behalf. The purchaser or the intending purchaser shall thereafter furnish a copy of the objection to the concerned employees.

(7c) If no objection is submitted by the licensee under sub-section (7a), the purchaser or the intending purchaser or any person duly authorised by him in this behalf shall proceed to examine *ex parte* as against the ailing licensee the statement with reference to available records and other materials as he may like to examine and to take evidence of persons as he may deem necessary and shall, after taking into consideration the dues of the employees from the licensee, determine, on adjustment, the dues, if any, of the licensee from the employee and the amount payable to the employee, if any.

(7d) On receiving any objection under sub-section (7b), the purchaser or the intending purchaser or any person duly authorised by him in this behalf, as the case may be, shall give notice to the employee and the licensee of the date fixed for hearing of the objection and after hearing the employee and the licensee, taking into account the evidence adduced, examining such papers and documents as he may deem necessary and considering the dues of the licensee from the employee, if any, and such other as he may like to consider including the dues, if any, of the licensee from the employee, shall determine the amount due to the employee. If the licensee fails to appear at the hearing, the objection shall be rejected and the amount due to the employee shall be determined *ex parte*.”;

4) in sub-section (8), for the words, figures and brackets “sub-section (6) or sub-section (7)”, the words, figures, letters and brackets “sub-section (6), or sub-section (7), or sub-section (7-c), or sub-section (7-d)”, shall be substituted ;

(3) in sub-section (9) for the words, figures and brackets "sub-section (6) or sub-section (7)", the words, figures, letters and brackets "sub-section (6), or sub-section (7), or sub-section (7c), or sub-section (7d)," shall be substituted ;

(4) to sub-section (11), the following proviso shall be added :—

"Provided that the sale of the undertaking shall not be deemed to be completed if the purchase price, if payable after deducting the claim of the employees of the licensee from the consideration money, has not been paid to the licensee in full and final settlement of his claim."

THE WEST BENGAL CENTRAL VALUATION BOARD (AMENDMENT) ACT, 1984

The following Act of the West Bengal Legislature, having been assented to by the Governor, was published in the *Calcutta Gazette (Ext.)*, Part III, dated 2nd February, 1985.

WEST BENGAL ACT XL OF 1984.

An Act to amend the West Bengal Central Valuation Board Act, 1978

Whereas it is expedient to amend the West Bengal Central Valuation Board Act, 1978 (West Ben. Act LVII of 1978), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. *Short title.*—This Act may be called the West Bengal Central Valuation Board (Amendment) Act, 1984.

2. *Amendment of section 2 of West Ben. Act LVII of 1978.*—In section 2 of the West Bengal Central Valuation Board Act, 1978 (hereinafter referred to as the principal Act),—

(a) in sub-section (1),—

(i) for clause (c), the following clause shall be substituted :—

"(c) "Calcutta" means Calcutta as defined in the Calcutta Municipal Corporation Act, 1980 : (West Ben. Act LIX of 1980);

(ii) after clause (e), the following clause shall be inserted :—

"(ee) "consolidated rate" means the consolidated rate leviable under the Bengal Municipal Act, 1932 (Ben Act XV of 1932.) or the Howrah Municipal Corporation Act, 1980 (West Ben Act LVIII of 1980) or the Calcutta Municipal Corporation Act 1980, (West Ben. Act LIX of 1980) as the case may be;"

(iii) for clause (f), the following clause shall be substituted :—

"(f) "Corporation" means the Calcutta Municipal Corporation and includes the Howrah Municipal Corporation and the Municipal Corporation of Chandernagore;"

(iv) for clause (h), the following clause shall be substituted :—

"(h) "Howrah" means Howrah as defined in the Howrah Municipal Corporation Act, 1980 ;;

(v) in clause (i) for the words "means a holding" in words "includes a *bustee*" shall be substituted ;

(vi) in clause (i), the words "and also garden Reach area" shall be omitted ;

(b) for sub-section (2), the following sub-section shall be substituted :—

“(2) Words and expressions used in this Act but not defined shall have the same meaning as in the Bengal Municipal Act, 1932 or the Calcutta Municipal Corporation Act 1980 or the Howrah Municipal Corporation Act, 1980, as the case may be”.

3. *Amendment of section 3.*—In section 3 of the principal Act,—

(a) for the words “from which the valuation made by the Board under this Act becomes operative in any area”, the words “of notification referred to in sub-section (1) of section 9.” shall be substituted ;

(b) for the words and figures “or the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), the words and figures “or the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980)” or the Howrah Municipal Corporation Act, 1980 West Ben. Act LVIII of 1980”, shall be substituted:

4. *Amendment of section 6.*—In sub section (3) of section 6 of the principal Act,—

(a) for the words “may appoint such other officers and employees as it may consider necessary for the efficient performance of its functions :”, the words “may create such posts of other officers and employees as may be approved by the State Government :” shall be substituted ;

(b) In the proviso, for the words “one thousand”, the words “one thousand five hundred” shall be substituted.

5. *Amendment of section 9.*—In section 9 of the principal Act,—

(a) in sub-section (1) —

(i) for the words and figures “or the Calcutta Municipal Act, 1951”, the words and figures “or the Calcutta Municipal Corporation Act, 1980 or the Howrah Municipal Corporation Act, 1980” shall be substituted ;

(ii) After the words “as the case may be”, the words “, in so far as they relate to the determination of annual valuation” shall be inserted ;

(b) In sub-section (2), in the first proviso, after the word “Calcutta”, the words “and Howrah” shall be inserted ;

6. *Amendment of section 10.*—In section 10 of the principal Act,—

(a) in sub-section (1), after the words “such valuation”, the words “and the amount of consolidated rate thereon” shall be inserted ;

(b) in sub-section (3), for the words “a period of sixty days thereafter”, the words “such period thereafter as may be prescribed,” shall be substituted.

7. *Amendment of section 11.*—In section 11 of the principal Act, after the words “and the valuation,” the words “together with the amount of consolidated rate thereon as” shall be inserted.

8. *Omission of section 13.*—Section 13 of the principal Act shall be omitted.

9. *Amendment of section 14.*—In section 14 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted :—

“(1) The owner or occupier or any other person primarily liable to pay consolidated rate may, if dissatisfied with the valuation of any land or building as entered in the final valuation list, apply to the Board to review the valuation”;

(b) in sub-section (3), for the words “in such manner as may be decided by the Review Committee constituted under section 15”, the words “by a Review Committee constituted under section 15 in accord-

ance with such procedure as may be prescribed." shall be substituted :

(c) for sub-section (4), the following sub-section shall be substituted :—

"(4) No application shall be entertained unless the amount of consolidated rate as recorded in the final valuation list referred to in section 11 has been paid or deposited in the office of the Corporation or the municipality, as the case may be, before the application is filed and the application shall fail unless such amount is continued to be paid or deposited till the application is finally disposed of."

10. *Amendment of section 15*—In section 15 of the principal Act,—

(a) for sub-section (1) and (2), the following sub-sections shall be substituted :—

"(a) The State Government shall constitute such number of Review Committees as may be considered necessary to hear the applications filed under sub-section (1) of section 14

(2) Each such Review Committee shall consist of two members of whom one shall be its President. The President of each Review Committee shall be appointed by the State Government on such terms and conditions and shall possess such qualifications as may be prescribed. The other member of the Review Committee shall be where the matter relates to—

(i) any land or building in any Ward in Calcutta or Howrah or Chandernagore, the Councillor of that Ward ; or

(ii) any land or building in any Ward in a municipality, the Commissioner of that Ward ; or

(iii) any land or building in any area other than the areas mentioned in clauses (i) and (ii), such person as the State Government may appoint ;

Provided that when a Corporation is, or the Commissioners of a municipality are, superseded, the State Government shall appoint a person residing in the Ward to which the matter relates as the other member referred in clause (i) or clause (ii) :

Provided further that no meeting of a Review Committee shall be held if the President is absent :

Provided also that no decision of a Review Committee shall be invalid or otherwise called in question merely by reason of any vacancy in the office of the other member or due to absence of such member from any sitting."

(b) in sub-section (3), for the words "the assessment and may direct fresh assessment", the words "may direct fresh valuation" shall be substituted

11. *Substitution of new section for section 16*—For section 16 of the principal Act, the following section shall be substituted :—

16. "Owner or occupier to file statement—Every owner or occupier of any land or building shall file a statement before the Board in such manner and within such time and specifying such particulars as may be prescribed."

12. *Amendment of section 19*.—In sub-section (1) of section 19 of the principal Act,—

(a) for the words "The Corporation of Calcutta," the words "The Calcutta Municipal Corporation, the Howrah Municipal Corporation," shall be substituted ;

(b) for the words "holdings in Calcutta," the words "holdings in Calcutta, Howrah," shall be substituted.

13 *Amendment of section 20.*—In sub-section (2) of section 20 of the principal Act, for the words “Reserve Bank of India”, the words “State Bank of India” shall be substituted.

14 *Amendment of section 22.*—In section 22 of the principal Act, for sub-section (1), the following sub-section shall be substituted :—

“(1) The Board shall have the same financial powers as are exercisable by the Secretary of a Department of the State Government. Matters beyond such financial powers shall be referred by the Board to the State Government for decision”.

15. *Insertion of new section 27A.*—After section 27 of the principal Act, the following section shall be inserted :—

“27A. *Members, officers and employees to be public servants.*—Every Member of the Board or every officer or employee of the Board shall, when acting or purporting to act under the provisions to Act, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).”.

THE WEST BENGAL INLAND FISHERIES ACT, 1984

The following Act of the West Bengal Legislature, having been assented to by the President, was published in the *Calcutta Gazette, Extraordinary*, Part III, dated 14th September, 1984.

WEST BENGAL ACT XXV OF 1984

An Act to provide for the conservation, development-propagation, protection, exploitation and disposal of inland fish and fisheries in West Bengal and for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for the conservation, development, propagation, protection, exploitation and disposal of inland fish and fisheries in West Bengal and for matters connected therewith or incidental thereto;

And whereas previous sanction of the President under the proviso to clause (b) of article 304 of the Constitution of India has been obtained;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of the West Bengal, as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the West Bengal Inland Fisheries Act, 1984.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may by notification appoint, and different dates may be appointed for different provisions of this Act.

2 *Definitions.* In this Act, unless there is anything repugnant in the subject or context,—

(i) “company” means a domestic company or a foreign company.

Explanation I.—“Domestic company” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and includes a company formed and registered under any law relating to companies formerly in force in any part of India:

Provided that the registered office of the company is in India.

Explanation II —“Foreign company” means a foreign company within the meaning of section 591 of the Companies Act, 1956, and includes any

foreign association, whether incorporated or not, which the Central Government may, by general or special order, declare to be a foreign company for the purposes of this Act;

(ii) "competent authority" means any person or authority authorised by the State Government by notification to perform the functions of the competent authority under this Act;

(iii) "firm" has the same meaning as in the Indian Partnership Act, 1932 (9 of 1932);

(iv) "fish" includes aquatic plants and animals in any stage of their life cycle;

(v) "fisherman" means a person who is by casts or by profession a fisherman and is mainly engaged in culture or capture of fish;

(vi) "fishery" means any activity or occupation connected with conservation, development, propagation, protection, exploitation or disposal of fish and fish products, or any place or water area where such activity or occupation is carried on, and includes a tank fishery.

Explanation.—"Tank fishery" shall have the same meaning as in the West Bengal Estate Acquisition Act, 1953 (West Bengal Act 1 of 1954);

(vii) "fixed engine" includes a net, cage, fishingfence, anchor, trap or contrivance for taking fish, fixed in the soil or made stationary in any other way;

(viii) "Hindu undivided family" has the same meaning as in the Bengal Agriculture Income-tax Act, 1944 (Ben. Act IV of 1944);

(ix) "multy-ownership tank" means a reservoir for water, held by two or more persons by way of ownership, lease, mortgage or otherwise;

(x) "notification" means a notification published in the Official Gazette;

(xi) "person" includes a Hindu undivided family, company, firm, institution (by whatever name called), fish production group, Gram Panchayat, Panchayat Samiti, Zilla Parishad, co-operative society or other association of persons;

(xii) "prescribed" means prescribed by rules made under this Act;

(xiii) "public purpose" means any purpose having, or being connected with, any of the following objects:—

(a) the improvement or development of fishry,

(b) the supply of fish to consumers from fishery,

(c) any object ancillary or incidental to the object referred to in sub-clause (a) or sub-clause (b)

CHAPTER II

Conversion and propagation

3. *Conservation and propagation of fish.*—(1) The State Government may, for the purpose of conservation and propagation of fish, by notification restrict, for any specified area and for a specified period, fishing of specified size, group or species of fish, and may by rules regulate the conservation and propagation of fish including the following:—

(i) the erection or use of fixed engine;

(ii) the construction, temporary or permanent, of any weir, dam or *bundh*;

(iii) the dimension and kind of any net or size of any mesh or any other fishing contrivance, and the mode of using them

(2) No person shall construct any dam, barrage, *bundh* or barrier of any kind whatsoever on a flowing river without making provision for fish-

pass or fish-ladder of such description and in such manner as may be directed by the competent authority.

4. *Angling in specified area.*—No person shall, without obtaining permission from the competent authority, catch fish by angling in such area as the State Government may by notification specify.

5. *Destruction of fish by explosive substance or poisoning*—If any person uses any dynamite or other explosive substance or puts any poison, lime or noxious material in fishery or other water area, with intent to catch or destroy any fish therein, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both

6. *Protection of fish.*—(1) No person shall discharge into any flowing water or any confined water area any industrial waste, sewage or other polluting substance that may affect the health or life of fish or cause destruction of fish, or act in contravention of any rules regulating the protection of fish.

(2) Any person causing pollution of any flowing water or any confined water area in contravention of the provisions of sub-section (1) shall be directed by the State Government for the prevention of such pollution within a specified time, failing which the State Government shall take such measures as it may think fit for the prevention of such pollution, and the entire cost in this behalf or any part thereof shall be recovered from such person.

(3) Without prejudice to the provisions of the foregoing sub-section, any person causing pollution of any flowing water or any confined water area may also be prosecuted and shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

CHAPTER III

Management

7. *Breed fish management.*—The State Government may prescribe by rules the minimum age, length and weight of fish be used for induced breeding for any purpose other than scientific research.

8. *Proper utilization of multi-ownership or other tanks for pisciculture.*—(1) If the competent authority, on receipt of an information or on his own motion or otherwise, is satisfied that a multi-ownership tank is not utilized in accordance with the prevailing norms of pisciculture and that it is necessary for any public purpose so to do, he may, after giving one month's notice to the owner and the possessor of such tank, by order in writing take over the management and control of such tank.

(2) The management and control of such tank may be transferred by the competent authority to any person for proper utilization of such tank in such manner as may be prescribed.

(3) Every co-sharer or co-owner of a multi-ownership tank shall be entitled to receive rent for taking over the management and control of such tank by the competent authority at such rate as may be determined by that authority in the manner prescribed.

(4) The management and control of a multi-ownership tank may be taken over under sub-section (1) for a period not exceeding 25 years or transferred to any person under sub-section (2) for a period not exceeding 10 years at a time.

(5) If the person referred to in sub-section (2) fails to utilize the multi-ownership tank in accordance with the prevailing norms of pisciculture, the competent authority may, after giving notice to such person, resume the management and control of such tank without payment of any rent or compensation to such person; and such tank may thereafter be managed by the competent authority or transferred to some other person for pisciculture.

(6) The provisions of this section shall apply, *mutatis mutandis*, to any tank owned or possessed by a single person, or a tank owned by the State Government jointly with other person or persons.

9. *Distribution of sewage water*.—(1) The State Government may, for the purpose of making an equitable distribution of sewage water for the sewage-fed fisheries set up a committee with such members as may be prescribed.

(2) The committee shall exercise such powers as may be prescribed.

10. *Fish production group*.—A cluster of fishermen or other persons or both may, for the purpose of efficient production and sale of fish in a collective way, form and register a fish production group in such manner as may be prescribed:

Provided that no person who is a member of any fishermen's co-operative society, registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1973, (West Ben. Act XXXVIII of 1973) shall be a member of a fish production group.

11. *Building up of buffer stock and levy of fish*.—(1) The State Government may, if it thinks fit so to do, build up a buffer stock of fish for the purpose of ensuring a steady supply to consumers.

(2) For the purpose mentioned in sub-section (1) the State Government may impose a levy on producers and wholesale dealers of fish at such scale and in such manner as may be prescribed:

Provided that such imposition of levy shall come into force in such areas and in respect of such species of fish as the State Government may by notification specify.

Explanation.—"producer" shall include a catcher.

12. *Sale of rejected fish*.—No fish or fish product rejected by any authority empowered to do so under any law for the time being in force as being unfit for export shall be put to sale for human consumption, unless the same has been certified by an authority, appointed by the State Government by notification, to be fit for such consumption and such authority shall also indicate in the certificate the period of validity thereto.

13. *Standard measure*.—No person shall sell fish-spawn without using such standard measure as may be specified by the State Government by notification.

14. *Regulated fish-market*.—Notwithstanding anything to the contrary contained in any other law for the time being in force, the State Government may by notification declare any area as a fish-market area within which purchase and sale of fish shall be regulated in accordance with such rules as may be prescribed.

15. *Fish-market*.—The owner or lessee of a fish-market wholly or partly meant for sale of fish shall ensure such hygienic condition in such market as may be prescribed.

16. *Observance of hygienic rule by a dealer.*—(1) Every person ordinarily dealing in fish of any quantity exceeding ten kilograms by way of sale, exposing for sale, transportation, storage, preservation or processing shall observe such hygienic and sanitary condition as may be prescribed.

(2) If any person fails to observe any hygienic or sanitary condition as provided in the rules referred to in sub-section (1), he shall be punished with fine which may extend to ten thousand rupees.

17. *Fishing labour.*—(1) The State Government may make rules regulating the payment of wages, either in cash or in kind or in both, the weekly duty hours and other terms and conditions of employment of the labour employed in fishing activity of any kind.

(2) Such rules may also provide for the mode of settlement of disputes between a fisherman and the labour employed by him.

CHAPTER IV

Miscellaneous

18. *Appeal.*—(1) An appeal against any order of the competent authority made under this Act or the rules made thereunder may be preferred within a period of thirty days from the date of communication of the order to the person aggrieved by such order.

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) An appeal under sub-section (1) shall lie with such officer, not below the rank of Deputy Director of Fisheries, as the State Government may by notification appoint.

(3) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant a reasonable opportunity of being heard, pass such orders thereon as it deems fit within a period not exceeding ninety days from the date of admission of the appeal.

(4) Every order passed by the appellate authority under this section shall be final.

19. *Power to make rules.*—(1) The State Government may by notification make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or are required to be, prescribed.

20. *Penalty.*—Whoever commits any offence by—

(a) contravening any of the provisions of this Act, or

(b) failing to comply with any direction lawfully given to him or any requisition lawfully made to him under this Act, shall except as otherwise provided in this Act, be punished with fine which may extend to five thousand rupees.

21. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government or officer or authority for any damage caused by anything which is in good faith done or intended to be done under this Act, or the rules made thereunder.

22. *Cognizance of offences.*—No court shall take cognizance of any

offence punishable under this Act, save on complaint made by a fishery officer not below the rank of a District Fishery Officer or a police-officer not below the rank of a Sub-Inspector.

23. *Act to override other laws.*—The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any contract, express or implied, or in any instrument having effect by virtue of any law other than this Act or in any custom or usage.

THE SREE SARSWATY PRESS LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1984.

The following Act of the West Bengal Legislature, having been assented to by the President, was published in the *Calcutta Gazette Extraordinary*, Part III, dated the 17th November, 1984.

WEST BENGAL ACT XXXIII OF 1984

An Act to provide for the acquisition and transfer, in the public interest, of the undertakings of Sree Saraswaty Press Limited, and for matters connected therewith or incidental thereto

Whereas Sree Saraswaty Press Limited had been engaged in photo-offset and letterpress printing, serigraphy, linotype and monotype, process engraving, type foundry, packaging and bookbinding, varnishing and P-U roller casting ;

And whereas the management of the undertakings of Sree Saraswaty Press Limited had been conducted in a manner highly detrimental to the public interest ;

And whereas the management of the undertakings of Sree Saraswaty Press Limited was taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951 (65 of 1951),

And whereas for the purpose of reconstructing and rehabilitating the undertakings of Sree Saraswaty Press Limited with a view to ensuring that the interests of the general public are served by the continuance, by the undertakings of the Company, of the aforesaid printing and other works which are essential to the needs of the general public, it is necessary to acquire the undertakings of the Company ;

It is hereby enacted in the Thirty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the Sree Saraswaty Press Limited (Acquisition and Transfer of Undertakings) Act, 1984.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Text omitted

THE END

PART X

NOTIFICATIONS, WEST BENGAL GOVERNMENT & CALCUTTA HIGH COURT

1985

Published in the *Gazette of India, (Ext.)*, Part I, No. 467,
dated July 25, 1984.

DEPARTMENT OF ENVIRONMENT

No. Env/458/2R-4/82.—(12th May, 1983).—In exercise of the power conferred by sub-section (1) and in particular by clause (d) of sub-section (2) of section 64, read with sub-section (1) of section 10 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the Governor is pleased hereby to make, in consultation with the West Bengal Pollution Control Board, the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called the **West Bengal Prevention and Control of Water Pollution (Manner and purposes for Associating Persons with the Board) Rules, 1983.**

(2) They shall come into force at once.

2. *Definitions.*—In these rules unless there is anything repugnant in the subject of context,—

(a) “The Act” means the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) “Board” means the West Bengal Pollution Control Board constituted under sub-section (1) of section 4 of the Act.

(c) “Chairman” means the Chairman of the Board.

3. *Manner in which and purposes for which persons may be temporarily associated with the Board and fees and allowances payable to such persons.*—

(1) The Board or the Chairman may invite any person whose assistance or advice is considered useful in performing any of its functions, to be associated with the Board and to participate in the deliberations of its meetings or to attend any other work of the Board.

(2) If such person is a non-official, he shall be entitled to a fee of rupees fifty for each day of attendance in the meeting of the Board (at which business is transacted and at which he is present from the beginning to the end thereof) and for each day of actual work for any work of the Board and to travelling allowance at a rate admissible to a Group A employee of the State Government.

(3) If such person is a Government employee or an employee in a Government undertaking, he shall be entitled to travelling allowance at the rate admissible to him under the relevant rules governing his employment.

DEPARTMENT OF ENVIRONMENT

No. Env/459/2R-4/82.—(12th May 1983).—In exercise of the powers conferred by sub-section (1) and, in particular, by clause (h) of sub-section (2) of section 64, read with clause (a) of sub-section (3) of section 21, of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the Governor is pleased hereby to make, in consultation with the West Bengal Pollution Control Board, the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called the **West Bengal Prevention and Control of Water Pollution (Form of notice for taking samples of effluents for analysis) Rules, 1983.**

(2) They shall come into force at once.

2. *Definitions.*—In these rules unless there is anything repugnant in the subject or context, —

(a) “The Act” means the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) ;

(b) “Board” means the West Bengal Pollution Control Board constituted under sub-section (1) of section 4 of the Act ;

(c) “Section” means a section of the Act.

3. *Form of notice for taking samples of effluents for analysis.*—When a sample of effluents is taken for analysis, the person taking the sample shall serve as required under clause (a) of sub-section (3) of section 21, a notice in Form 1.

FORM I

WEST BENGAL POLLUTION CONTROL BOARD

Notice of intention to have sample analysed

To

.....
.....
Take notice that it is intended to have analysed the sample of water/
sewage/trade effluent which is being taken today the.....day of.....
19..... from (1).....

.....
Name and designation of the
Person who take the sample.

(1) Here specify the stream, well, plant, vessel or place from where
the sample is taken.

.....
.....

DEPARTMENT OF ENVIRONMENT

No. Env/460/2R-4/82.—(12th May, 1983).—In exercise of the powers conferred by sub-section (1), and, in particular, by clause (1) of sub-section (2) of section 64, read with sub-section (3) of section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the Governor is pleased hereby to make, in consultation with the West Bengal Pollution Control Board, the following rules, namely :—

Rules

1. *Short title and commencement.*—(1) These rules may be called the **West Bengal Prevention and Control of Water Pollution Procedure (to be followed in inquiry in respect of Application for consent of the Board) Rules, 1983.**

(2) They shall come into force at once.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(a) “The Act” means the Water Prevention and Control of Pollution Act, 1974 (6 of 1974);

(b) “Board” means the West Bengal Pollution Control Board constituted under sub-section (1) of section 4;

(c) “Section” means a section of the Act.

3. *Procedure to be followed in inquiry in respect of application for consent of the Board.*—(1) On receipt of an application for consent under section 25 or section 26, the Board may depute any of its officers accompanied by as many assistant as may be necessary, to visit the premises of the applicant, to which such application related, for the purpose of verifying the correctness or otherwise of the particulars furnished in the application or for obtaining such further particulars or information as such officer may consider necessary. Such officer may, for that purpose, inspect any place where water or sewage or trade effluent is discharged by the applicant, or treatment plants, purification works or disposal system of the applicant and may require the applicant to furnish to him any plan specification and data relating to such treatment plants, purification works of disposal systems or any part thereof, he consider necessary.

(2) The officer shall before visiting any premises of the applicant for the purpose of inspection under sub-rule (1), give notice to the applicant of his intention to do so in Form II. The applicant shall furnish to such officer all facilities that such officer may legitimately require for the purpose.

(3) Such officer may, before or after making the inspection under sub-rule (1), require the applicant to furnish to him, orally or in writing, such additional information or clarification, or to produce before him such documents, as he may consider necessary for the purpose of inquiry and may, for that purpose, summon the applicant or his authorised agent to the office of the Board

FORM II

[See rule 3]

WEST BENGAL POLLUTION CONTROL BOARD

Notice of Inspection

Chairman	Member Secretary
Shri.....	Shri.....
.....	
.....	
.....	No.....
	Dated.....

To

Take Notice that for the purpose of enquiry under section 25/26 the following officers of the Board, namely :

(i) Shri.....

(ii) Shri.....

(iii) Shri.....

and the persons authorised by the Board to assist them shall inspect the—

(a) Waste Works,
 (b) Sewage Works,
 (c) Waste treatment Plant,
 (d) Factory,
 (e) Disposal system,
 (f) Any other parts thereof or pertaining thereto under your management/control on date(s) between hours when all facilities requested by them for such inspection should be made available for them on the site. Take notice that refusal or denial to above stated demand made for performing the functions of the Board will amount to obstruction punishable under section 42 of the Act.

By order of the Board,
 Member-Secretary.

Copy to (1)
 (2)
 (3)

DEPARTMENT OF ENVIRONMENT

No. Env/563/W-33/82.—(7th June, 1983).—In exercise of the power conferred by sub-section (4) of the section 6 of the **Water (Prevention of Control of Pollution) Cess Act, 1977** (36 of 1977) (hereinafter referred to as the said Act) and in supersession of the Department of Health and Family Welfare notification No. PH/86/1W-34/78, dated the 17th January, 1980 and PH-131/1W-34/78, dated the 28 January 1980, the Governor is pleased hereby to specify the **West Bengal Pollution Control Board** as the authority to collect the cess from the person or the local authority liable to pay the said Act.

Published in the *Calcutta Gazette, (Ext.)*, Part I, No. 490,
 dated August 3, 1984

EDUCATION DEPARTMENT

No. 702-Edn(S)/8B-10/83.—(19th July 1984).—In exercise of the power conferred by sub-section (1), and, in particular, by clause (b) of sub-section (2) of section 45 of the **West Bengal Board of Secondary Education Act, 1963** (West Ben. Act V of 1963), read with sub-clause (b) of clause (14) of section 4 of the said Act, the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section, the following **amendments in the West Bengal Board of Secondary Education Electoral) Constitution of Electorate, Preparation and publication of Electoral Roll) Rules, 1981** (hereinafter referred to as the said rules) :—

AMENDMENT

In the said rules,—

(1) in rule 2,—

(i) for clause (f), substitute the following clause :—(f) “Chief Election Officer” means the Director of School Education, West Bengal or any other officer appointed by the State Government for the purpose and includes any person for the time being performing the duties of the Director of School Education, West Bengal ;

(ii) for clause (i), substitute the following clause :—(i) “Secondary School” means an educational institution or a part or department of such school or institution recognised by the West Bengal Board of Secondary

Education or a Secondary School recognised by the West Bengal Board of Secondary Education imparting instructions in classes XI of XII as per syllabi prescribed by the West Bengal Council of Higher Secondary Education established under the West Bengal Council of Higher Secondary Education Act, 1975 (West Ben. Act VIII of 1975) ; ;

(2) in rule 4, after the words "the electoral roll", insert the words "in the manner provided in these rules".

(3) in rule 5,—

(a) after sub-rule (1), insert the following sub-rule :—“(1a) After the date of election of members under sub-clause (b) of clause (14) of section 4 of the Act has been announced by the Chief Election Officer, the Registering Authority shall at least 90 days before the date of election, invite applications from eligible persons in Form I for inclusion of their names in the electoral roll through at least three leading dailies”.

(b) in sub-rule (2),—

(1) for clause (i), substitute the following clause :—

“(i) The electoral roll shall be prepared in separate parts, one part being allotted to each district including Calcutta as a district and each part for a district shall be divided into as many sections as there are police-stations and each section shall be divided into as many sub-sections as there are Secondary Schools under such police-station.”;

(2) in clause (ii)—

(i) for the word “section”, substitute the words “sub-section”,

(ii) after the word “alphabetically”, insert the words “on the basis of surname”;

(3) in clause (iii)—

(i) after the words “or section” appearing in the first line, insert the words “or sub-sections” ;

(ii) after the words “therein appearing in the last line, add the words “and have applied for inclusion of their names under these rules”,

(4) in rule 7,—

(i) for clause (b), substitute the following clause :—

“(b) the section of the election roll relating to a police station shall be published at that police station,” ;

(ii) Omit clause (c) :

(iii) in clause (d), for the word “complete” appearing in the first line substitute the word ‘draft’ ;

(5) in rule 8, for the word and figure “Form I”, substitute the words and figure “Form II” ;

(6) in rule 9, for the words and figures “Forms II and III”, substitute the words and figures “Forms III and IV” ;

(7) in-rule 13,—

(a) in the title, after the words “Notice of”, insert the words “claims and”.

(b) for sub-rule (1), substitute the following sub-rule :—

“(1) Subject to the provisions of sub-rule (2) of rule 9, the Revising Authority shall serve notice in Form V or Form VI as the case may be every person who has submitted claims for inclusion of his name in the electoral roll or filed objection to the inclusion of any name or other entries therein, and whose application has been received within the time specifying

the place where, and the time within which, his claims or objection shall be heard and directing him to be present with such evidence as he may wish to adduce except in a case where the Revising Authority is satisfied as to the validity of an objection.”;

(c) in clause (2), for the words and figure “Form V”, substitute the word and figure “Form V”;

(8) in rule 14, for the words “by registered post”, substitute the words “under certificate of posting”;

(9) in rule 16, omit the figure and the brackets “(1)”;

(10) in rule 17,—

(a) in the title, omit the word “draft”,

(b) in sub-rule (1),—

(i) omit the word “draft” wherever it occurs,

(ii) for the words and figure “in the manner specified in rule 7”, substituted the words “by the Registering Authority”;

(11) for Schedule I, substitute the following schedule :—

“SCHEDULE I”

West Bengal Board of Secondary Education

[See rule 2(b)]

Number of members to be elected under sub-clause (b) of clause (14) of section 4 of the West Bengal Board of Secondary Education Act, 1963—
from each Constituency,

Serial No.	Constituency	Number of members to be elected
1. Bankura		2
2. Birbhum		1
3. Burdwan		3
4. Calcutta		3
5. Cooch Behar		1
6. Darjeeling		1
7. Hooghly		2
8. Howrah		2
9. Jalpaiguri		1
10. Malda		1
11. Midnapore		4
12. Murshidabad		2
13. Nadia		2
14. Purulia		1
15. West Dinajpur		1
16. 24-Parganas		5
Total ...		32

(12) for Forms I to V, substitute the following From :—

“FROM I to V,
(Omitted)

Published in the Calcutta Gazette, "Ext". Part I, No. 490,
dated August 3, 1984

EDUCATION DEPARTMENT

No. 703-Edn./S/8B-10/83—19th July 1984 —In exercise of the power conferred by sub-section (1), and, in particular, by clause (b) of sub-section (2), of section 45 of the West Bengal Board of Secondary Education Act, 1963 (West Ben. Act V of 1963), read with sub-section (b) of clause 14 of section 4 of the said Act, the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section, the following amendments in the West Bengal Board of Secondary Education Electoral (Conduct of Elections) Rules, 1981 (hereinafter referred to as the said rules):—

AMENDMENTS

In the said rules,—

(1) in rule 2,—

(a) for clause (4), substitute the following clause :—

'(4) "Chief Election Officer" means the Director of School Education West Bengal or any other officer appointed by the State Government for this purpose and includes any person for the time being performing the duties of the Director of School Education, West Bengal ;

(b) for clause (16), substitute the following clause :—

'(16) "Secondary School" means an educational institution or a part or department of such school or institution recognised by the West Bengal Board of Secondary Education or a Secondary School recognised by the West Bengal Board of Secondary Education imparting instructions in classes XI and XII as per syllabi prescribed by the West Bengal Council of Higher Secondary Education Act, 1975 (West Ben. Act VIII of 1975);"

(2) in rule 7, for sub-rule (4), substitute the following sub-rule :—

'(4) An elector may sign as proposer or seconder in as many nomination papers as the number of persons to be elected from the district in respect of election for which he is an elector and if he signs as proposer or seconder in nomination papers more than the number of persons to be elected from the district, all nomination papers so signed by him shall be deemed to be invalid";

(3) in rule 38, for the words "the Polling Officer", substitute the words "the senior Polling Officer";

(4) for form 1(b), substitute the following from.—

FROM I (b)
(Omitted)

Published in the Calcutta Gazette "Ext.", Part I, No. 839,
dated December, 30, 1983.

DEPARTMENT OF FOOD AND SUPPLIES

No. 9904F. S.—30th December, 1983.—Whereas the Governor is of opinion that it is necessary and expedient so to do for maintaining supplies of tea, an essential commodity, and for securing its equitable distribution ;

Now, therefore, in exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the Government of India, Ministry of Agriculture and Irrigation (Department of Food) Order No. GSR 800, dated the 9th June, 1978 and the provisions of the Tea (Registration of Dealers and Declaration of Stocks) Order, 1983, issued

under the Ministry of Commerce (Department of Commerce), Government of India order No. S. O. 901 (E), dated the 6th December 1983, published in Part II, sub-section (ii) of section 3, of the 'Gazette of India, Extraordinary', dated the 6th December 1983, the Governor is pleased hereby to make the following order, namely :—

1. *Short title, extent and commencement.*—(1) This order may be called **The West Bengal Tea (Registration of Dealers and Declaration of Stocks) Order, 1983.**

(2) It extends to the whole of West Bengal.

(3) It shall come into force at once.

2. *Definitions*—(1) In this order, unless the context otherwise requires,—

(a) "commission agent" means a commission agent having in the customary course of business as such agent authority either to sell tea or to consign tea for the purposes of sale or to buy tea ;

(b) "dealer" means a dealer in tea, and includes a producer, broker, commission agent, manufacturer and a warehouse keeper ;

(c) "Government" means the Government of West Bengal ;

(d) "Place of business" means the place where the books of account of business of a dealer are kept and orders or offers involving purchase and sale of tea are received by him ;

(e) "registered" means the holding of a valid registration certificate granted under this order ;

(f) "registering authority" means—

(i) the Subdivisional Controller of Food and Supplies under the Directorate of Distribution, Procurement and Supply under the Department of Food and Supplies in his respective jurisdiction ;

(ii) the Rationing Officer under the Directorate of Rationing under the Department of Food and Supplies in the Calcutta district in his respective jurisdiction excluding the portions falling within the jurisdiction of any Sub-divisional Controller of Food and Supplies ; and

(iii) such other officer of the Government as may be authorised by the Government by notification in the Official Gazette to perform all or any of the functions of the registering authority under this order in respect of such area as may be specified in the notification ;

(g) "tea" means the plant *Camellia Sinensis* (L) O Kuntze as well as all varieties of the product known commercially as tea made from the leaves of the said plant including green tea ;

(h) "warehouse keeper" means a person who owns, maintains or hires a warehouse wherein tea is stored for the purpose of sale either by auction or otherwise.

(2) Words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Tea Act, 1953 (29 of 1953).

3. *Registration of dealers.*—(1) No person shall, if the stocks of tea in his possession exceed 1,000 kilograms, carry on business as a dealer with effect from the 4th January, 1984, unless he is registered as such in accordance with the provisions of this order.

(2) A separate registration certificate shall be obtained for each place of business.

4. *Furnishing of returns.*—Every registered dealer shall furnish a fortnightly return in Form C, to the registering authority having jurisdiction,

within two days from the close of the fortnight, in respect of the stock of tea held by him, as on the 15th/last day of the month.

Explanation.—For the purpose of paragraph 4 of the Tea (Registration of Dealers Stocks) Order, 1983 publication of this order in the Official Gazette shall be deemed to be a notification by the Government for the said purpose.

5. *Order not to apply in certain cases.*—Nothing in this order shall apply—

(1) to a corporation or company owned or controlled by the Central Government or a State Government ;

(2) to any Central Government State level co-operative society, engaged in the production, procurement, storage, sale, purchase or distribution of tea ;

(3) to sale by banks of stocks of tea hypothecated to or pledge with such banks.

6. *Grant or re-issue or renewal of registration certificate.*—(1) The registering authority may, on application in Form A being made to him by a dealer and after such enquiry as it may deem necessary, grant, re-issue or renew a registration certificate in Form B.

(2) A registration certificate under sub-paragraph (1) shall be valid for a period of one year from the date of its issue and may be renewed by the registering authority for a further period not exceeding three years at a time on an application made to it in that behalf before the expiry of the period of validity of such registration certificate.

(3) An application for renewal of a registration certificate shall be accompanied by the registration certificate.

(4) The period of validity of a registration certificate shall not be deemed to have expired, if an application for its renewal is pending before the registering authority.

7. *Registration fees.*—(1) The fee chargeable for registration under paragraph 6 shall be Rs. 100 and the fee for its renewal for every period of one year shall be Rs. 100.

(2) If a registration certificate is defaced, damaged destroyed or lost, the registered dealer shall forthwith inform the registering authority and the registering authority may, on application made to it and on payment of a fee of Rs. 100 by the registered dealer and after making such enquiry as it may deem necessary, issue a duplicate registration certificate and thereupon the registration certificate so defaced, damaged, destroyed or lost shall cease to be valid.

(3) The fees specified in sub-paragraphs (1) and (2) shall be payable in non-judicial stamps.

8. *Power of registering authority to cancel or suspend a registration certificate.*—(1) Any contravention of any of the conditions of registration certificate shall be a contravention of this order.

(2) If a registered dealer or any person acting on his behalf contravenes any of the provisions of this order or if the registered dealer has contravened any other law for the time being in force relating to tea, then, notwithstanding anything contained in paragraph 6 and without prejudice to any other action that may be lawfully taken against him, the registering authority may, by order, suspend the registration certificate and after

giving the registered dealer an opportunity of stating his case in writing, cancel the registration certificate.

(3) Notwithstanding anything contained in sub-paragraph (2), where a registered dealer has been convicted by a court of law in respect of a contravention of any order made under section 3 of the Essential Commodities Act, 1955 (10 1955), relating to foodstuffs, (including tea) the registering authority may forth with or as soon as possible thereafter, by order, cancel his registration certificate ;

Provided that where such conviction is set aside on appeal or revision, the registering authority may on an application made to it re-issue the registration certificate to the dealer whose registration certificate has been cancelled.

(4) On cancellation or suspension of a registration certificate under sub-paragraph (2) or (3) or on a registration certificate ceasing to be valid, the registered dealer shall surrender the same to the registering authority within seven days from the date of effect of such cancellation, suspension or cessation of validity, and shall dispose of the stocks of tea available with him on such date in accordance with the directions of the registering authority.

9. *Power of registering authority to refuse to grant, re-issue or renew registration certificate.*—(1) The registering authority may, after giving the applicant an opportunity of stating his case in writing and for reasons to be recorded in writing, refuse to grant or re-issue or renew a registration certificate.

(2) Subject to the provisions of this order, the registering authority may after making such enquiry as it deems necessary and for reasons to be recorded in writing vary or amend a registration certificate.

10. *Appeal.*—(1) Any person aggrieved by an order of the registering authority refusing to grant or re-issue or renew a registration certificate or varying, amending, cancelling or suspending a registration certificate under the provisions of this order, may prefer an appeal within thirty days of the receipt by him of such order to the Director of Non-cereal Essential Commodities, Government of West Bengal or to any other appellate officer who may be nominated in this behalf by the Government.

(2) On receipt of an appeal under sub-paragraph (1) the appellate officer shall, after giving the appellant a reasonable opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) The appellate officer, before whom an appeal is pending, may direct that the order of the registering authority appealed against shall not have effect pending the disposal of the appeal.

11. *Power to call for information, etc.*—The registering authority or any officer authorised by the registering authority may require a registered dealer—

(a) to produce for inspection his stocks, accounts and records relating to tea ;

(b) to furnish any information in his possession relating to tea ; and

(c) to give all facilities at all reasonable times for the inspection of his stocks, records and accounts at any shop, godown or other place used by him for storage of tea and for weighing of his stocks and for the taking of samples for examination.

12. *Power of entry, search, seizure, etc.*—(1) The registering authority or any officer in the Food and Supplies Department not below the rank of a Sub-Inspector authorised by the registering authority or any police officer not below the rank of an Assistant Sub-Inspector may, with a view to securing compliance with this order or to satisfying itself or himself that this order has been complied with,—

(a) inspect or cause to be inspected any books or documents or accounts as well as any stock of tea belonging to, or under control of any person ;

(b) require any person to give any information in his possession with respect to any business for purchase, sale or storage of tea ;

(c) stop and search forthwith, with such aid or assistance as may be necessary, any person or vehicle or vessel or animal used or suspected of being used for delivery of tea to and from a godown or other premises, where he has reason to believe that tea are stored ;

(d) enter and search, with such aid or assistance, as may be necessary, any such godown or other premises, and

(e) seize and remove, with such aid or assistance as may be necessary, the entire quantity of any stock of tea along with the packages, coverings or receptacles in which such stock is found and the animals, vehicles, vessels or other conveyances used in carrying such stocks, if it or he has reason to suspect that any provision of this order has been, is being or is about to be, contravened in respect of such stock or any part thereof or in respect of any other stock of tea which immediately before the contravention was stored or possessed along with such stocks ; and thereafter take or authorise the taking of all measures necessary for securing the production of the stocks of tea, packages, coverings, receptacles, animals, vehicles, vessels or other conveyances so seized in a court of law and for their safe custody pending such production :

Provided that in exercising the powers under this sub-paragraph due regard shall be paid to the social and religious customs of the inmates or occupants of the premises.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall so far as may be, apply to searches and seizures under this paragraph.

13. *Power to exempt.*—The Government may, by notification in the Official Gazette, exempt for such period and subject to such conditions as it may think fit any class or classes of persons from all or any of the provisions of this order.

THE SCHEDULE FORM A

(See paragraph 6)

Form of application for grant of a registration certificate under paragraph 6 of the West Bengal Tea (Registration of Dealers and Declaration of Stocks) Order, 1983

1. Applicant's name
2. Applicant's father's name
(in the case of an individual)
3. Applicant's profession
4. Applicant's residential address

5. Situation of applicant's business premises (i.e. place of business with particulars as to village, police-station and district).
6. Location of applicant's godown(s), if any with particulars as to if the godown is owned or hired by him).
7. How long the applicant has been purchasing, selling, storing or supplying tea.
8. Quantities of tea handled during the past 3 years, if any.
9. Income-tax paid in the two years preceding the year of application (to be indicated separately).
 - (1)
 - (2)
10. I declare that the following quantities of tea are in my possession this day and are held at the following places.

I hereby apply for grant of a registration certificate under paragraph 6 of the West Bengal Tea (Registration of Dealers and Declaration of Stocks) Order, 1983 for carrying on aforesaid business at the aforesaid place. I have understood the provisions of the said Order and the conditions of registration certificate in Form B of the Schedule to the said Order, and I agree to abide by them.

I have not previously applied for such registration certificate/I applied for such registration certificate on.....and was/was not granted registration certificate on.....

I declare that I am the proprietor/manager/secretary of the firm or organisation on behalf of which this application is made.

Dated 198 . Signature and thumb impression of the applicant.

Note—If the application is made on behalf of a corporate body, the applicant's position vis-a-vis that body should be specifically stated.

Note—Strike out the words or paragraphs which are not applicable.

FORM B

(See paragraph 6)

Registration Certificate under paragraph 6 of the West Bengal Tea (Registration of Dealers and Declaration of Stocks) Order, 1983

No.

Certified that Shri/Shrimati.....

son/wife/daughter of.....

Shri/Messrs.....

Lessee/Lessee of.....

*Messrs.....

having registered office at.....

and local office at.....

*(Only in case of partnership firm/other corporate body).

of village/town..... police-station..... district.....

has/have registered his/their name as a dealer to carry on business for sale, or storage for sale of tea.

2. The registered dealer shall carry on business :

(a) only at the following place and store the tea only at the following godown(s)

(b) only within the area comprising

3. This registration certificate shall cease to be valid in the event of death of the registered dealer or transfer of interest in his business or re-construction of the firm in the partnership business and in such cases a fresh registration certificate shall be applied for under paragraph 6 of the said Order.

The registration certificate shall be valid up to

This registration certificate is issued subject to the provisions of the West Bengal Tea (Registration of Dealers and Declaration of Stocks) Order, 1983.

Dated.....

Office seal of the registering authority.

Signature and designation of the
Registering Authority.

FORM C

(See paragraph 4)

(To be submitted to the Registering Authority by 2nd and 17th for every month.)

Report for the fortnight
ending on.....

Return of Stocks, Receipts and Sales/Supplies etc. under paragraph 4 of the West Bengal Tea (Registration of Dealers and Declaration of Stocks) Order, 1983.

Name of Registered Dealer

Category : Producer (Tea estates)/Warehouse
keeper/Broker/Commission Agent/Manufact-
urer (Blender) Wholesaler/Retailer.

Number of registration certificate

Address

Particulars of godowns where stocks are held

Full particulars if stocks are held on behalf
of other person/persons.

Particulars

Quantity in kilograms
C. T. C. Orthodox.

1. Stocks at the beginning of the fortnight
2. Quantity received/purchased during the fortnight.
3. Total
4. (a) Quantity sold/supplied during the fortnight
- (b) Quantity sold but not yet delivered
5. Stock at the end of the fortnight—
- (a) Unsold/not supplied
- (b) Sold but awaiting delivery.

To

Registering Authority

Place.....

Date.....

Signature or left thumb impression of
returneePublished in the *Calcutta Gazette (Ext.)*, Part I, No. 163, dated March
12, 1984.**FINANCE DEPARTMENT**

No. 2851-F.—12th March 1984.—In exercise of the powers conferred under sub-section (3) of section 1 of the **West Bengal Non-Government Educational Institutions and Local Authorities (Control of Provident Fund of Employees) Act, 1983** (Act XXXIX of 1983), the Governor is hereby pleased to order that for the Educational Institutions and Local Authorities in the State of West Bengal, as named below, the appointed day for the purpose of the aforesaid Act XXXIX of 1983, shall be as indicated hereunder :—

- (i) Universities—
the Bidhan Chandra Krishi Viswavidyalaya
the Calcutta University
the Vidyasagar University
the Burdwan University
the Jadavpur University
the North Bengal University
the Rabinra Bharati
the Kalyani University—15th March 1984.
- (ii) all Primary Schools of which District School Boards or District Inspectors of Schools (Primary) are the Controlling Authorities—15th March, 1984.
- (iii) all Municipal Corporations excepting the Municipal Corporation of Calcutta—15th March 1984.
- (iv) all Municipal/Town Committees—15th March 1984.

2. Ordered that the copies of these Orders be published in the Official Gazette.

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 701,
dated October 29, 1983**DEPARTMENT OF ENVIRONMENT**

No. Env./1031/2R-5/83.—(29th October 1983).—In exercise of the powers conferred by section 54 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), the Governor, after consultation with the West Bengal Pollution Control Board, hereby makes the following rules :—

CHAPTER I**Preliminary**

1. *Short title and commencement.*—(1) These rules may be called the **Air (Prevention and Control of Pollution) Rules, 1983.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*—In these rules, unless there is any thing repugnant in the subject or context,—

(a) "Act" means Air (Prevention and Control of Pollution) Act, 1981 ;

(b) "appellant" means any person aggrieved by and appealing against an order made by West Bengal Pollution Control Board under section 20, section 21 or section 22 ;

(c) "Appellate Authority" means the Authority constituted by the Government of West Bengal under sub-section (1) of section 31 ;

(d) "Board" or "State Board" means the West Bengal Pollution Control Board constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 ;

(e) "Chairman" means the Chairman of the State Board ;

(f) "Central Board" means the Central Board for the Prevention and Control of Water Pollution constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 ;

(g) "consultants" means and includes any person whose services, technical or otherwise, may be obtained by the Chairman to conduct the affairs of the Board ;

(h) "emission" means any solid or liquid or gaseous substance coming out of any chimney, duct or flue or any other outlet ;

(i) "Form" means a form appended to these rules ;

(j) "furnace" means any structure or installation where any form or type of fuel is burnt or otherwise a high temperature higher than ambient is maintained ;

(k) "industrial plant" means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere ;

(l) "member" means a member of the State Board and includes the Chairman thereof ;

(m) "Member-Secretary" means the Member-Secretary of the Board ;

(n) "occupier", in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory or the premises ;

(o) "premises" means any building, structure or property used for industrial or trade purposes where pollution occurs ;

(p) "State Air Laboratory" means a laboratory established or specified as such under sub-section (1) of section 28 ;

(q) "section" means a section of the Act ;

(r) "State Board Laboratory" means a Laboratory established or recognised as such under sub-section (2) of section 17 of the Act ;

(s) "year" means the financial year commencing on the 1st day of April.

CHAPTER II

Appointment of Consultants

3. *Conditions for appointment of consultants.*—For the purposes of assisting the Board in the performance of its functions, the Chairman may appoint a consultant to the Board for a specific period not exceeding six months :

Provided that the Chairman may with prior approval of the Board extend the period of appointment of the consultant from time to time upto one year.

Provided further, that the Chairman may with the prior approval of State Government make appointment of the consultants for a period beyond one year.

4. *Power to terminate appointment.*—Notwithstanding the appointment of consultants under rule 3, the Chairman shall have the right to terminate appointment of the consultants before the expiry of the period of their appointment, if in the opinion of the Chairman this becomes desirable.

5. *Salary and allowances or fees of consultants.*—The Chairman may pay to the consultant suitable salary and allowances or fees depending on the nature of the work and qualifications of the consultant, provided that he shall not appoint any person as consultant if the salary and allowances or fees payable exceed Rs. 2,000 per month. If the salary and allowances or fees payable exceed Rs. 2,000 per month but do not exceed Rs. 2,500 per month, he may appoint a person as consultant with the prior approval of the Board. If the salary and allowances or fees exceed Rs. 2,500 per month approval of the State Government must be obtained before he appoints a person as consultant. If the appointment is less than one month, prorata payment to the consultants shall be made.

6. *Tours by consultant.*—The consultant may undertake tours within the country for the performance of duties entrusted to him by the Board and in respect of such tours, he shall be entitled to travelling and daily allowance at the rate applicable to Grade-I Officers of the State Government. He will, however, get the prior approval of the Chairman or Member-Secretary for his tour programme.

7. *Consultant not to disclose information.*—The consultant shall not disclose any information either given by the Board or obtained during the performance of the duties assigned to him, either by the Board or otherwise to any person other than the Board without written permission of the Board.

8. *Duties and functions of the consultants.*—The consultant shall discharge such duties and perform such functions as are assigned to him by the Board/Chairman.

CHAPTER III

The manner in which any areas may be declared as Air Pollution Control Area or areas under sub-section (1) of section 19.

9. *Air Pollution Control Area and manner of declaration of such areas.*—

(1) The area bounded by the respective boundaries of the industries specified in schedule appended to the Act are hereby declared as Air Pollution Control Areas under sub-section (1) of section 19.

(2) In addition to the provisions of sub-rule (1) the State Government may declare any specific area as pollution control area/areas on the recommendation of the Board after it is satisfied for the need of action to control air pollution on the basis of the status of the air quality of that area by notification in the Official Gazette.

CHAPTER IV

The form of application for the consent of the State Board, the fees payable therefor, the period within which such application shall be made and the particulars it may contain

10. *Application for consent.*—(1) An application for obtaining the consent of the Board for bringing into use any new or altered chimneys

for emission into, or for continuing an existing emission from chimney into atmospheres under section 21 shall be made to the Board in Form I.

(2) Such applications shall be accompanied by fees to be specified by the Board.

(3) Any application not accompanied by the specified fees shall not be entertained by the Board.

(4) The specified fees shall be paid by Bank Draft in favour of the Board.

CHAPTER V

Procedures for making enquiry into application for consent

11. *Procedure for making enquiry into application for consent.*—(1) On receipt for an application for consent under section 21 the Board may depute any of its officers accompanied by as many assistants as may be necessary to visit and inspect any place or premises under the control of the applicant or the occupier to which such application relates for the purpose of verifying the correctness or otherwise of the particulars furnished in the application or for obtaining such further particulars or information as such officer may consider necessary. Such officer may for that purpose inspect any place or premises, Where emission from the chimney or fugitive emission from any location with the premises of the industry as also any control devices installed in the said premises. Such officer may for that purpose, inspect any place or premises under the control of the applicant or occupier, and may require the applicant to furnish to him any plans, specifications or other data relating to control equipment or systems or any part thereof that he considers necessary.

(2) Such officer shall before visiting any premises of the applicant for the purpose of inspection under sub-rule (1) give notices to the applicant of his intention to do so in Form II. The applicant shall furnish to such officer all information and provide all facilities to conduct the inspection.

(3) An officer of the Board may, before or after carrying out an inspection under sub-rule (1), require the applicant to furnish to him orally or in writing such additional information or clarification, or to produce before him such documents, as he may consider necessary for the purpose of investigation of the application and may for that purpose summon the applicant or his authorised agent to the office of the Board.

CHAPTER VI

The authorities or agencies to whom information under sub-section (1) of section 23 is to be provided

12. *Submission of information by the occupier under sub-section (1) of section 23.*—An officer-in-charge of industrial plant or occupier of the premises from where due to an accidental breakdown of some processes or installations or otherwise an emission occurs or is apprehended to occur in excess of the standards laid down by the Board shall forthwith intimate the fact of such occurrence or of the apprehension of such occurrence to the Collector, Sub-divisional Magistrate, nearest police authority, the nearest officer of the local authority including Departments of Panchayat, Environment, Health and Family Welfare and Industry in addition to the State Board.

CHAPTER VII

The manner in which samples of air or emission may be taken under sub-section (1) of section 26

13. Power to take samples.—(1) The Board, or any officer empowered by it in this behalf shall have the power to take, for the purpose of analysis samples of air or emission from any chimney, flue or duct, plant or vessel or any other sources and outlets, stationary or mobile, under sub-section (1) of section 26. The occupier of the premises shall provide all necessary facilities for sampling of air or emission from any chimney, flue or duct, plant or vessel or any other sources and outlets, stationary or mobile, as may be specified by the Board or any officer empowered by it in this behalf. The occupier of the premises shall provide all necessary facilities for access to the sampling places as may be specified by the Board or any officer empowered by it in this behalf.

(2) The procedures used for sampling air or emission from any chimney flue or duct, plant or vessel or any other sources and outlet, stationary or mobile, the instruments used for sampling and the methods of measuring air pollutants shall be such as may be specified by the Board to suit the situation.

CHAPTER VIII

The form of the notice referred to in sub-section (3) of section 26

14. Form of notice.—A notice under sub-section (3) of section 26 shall be in Form III.

CHAPTER IX

Report of Board Analyst

15. Form of report of Board analyst.—When a sample of any air or emission has been sent for analysis to a laboratory established or recognised by the Board, the Board Analyst appointed under sub-section (2) of section 29 shall analyse the sample and submit to the Board, a report of the result of such analysis in triplicate in Form IV.

CHAPTER X

State Air Laboratory

16. Functions of the State Air Laboratory.—The State Air Laboratory shall cause to be analysed any sample of air or emission received by it from any officer authorised by the Board, for the purpose, and the findings shall be recorded in triplicate in Form V.

17. Fees of report.—The fees for each such report shall be such as may be notified by the Board from time to time.

CHAPTER XI

The qualifications required for Government Analyst

18. Qualification of Government Analyst and Board Analyst.—The qualifications for the Government Analyst and Board Analyst under sub-sections (1) and (2) of section 29 shall be as follows :—

At least 2nd Class M.Sc. in Chemistry or Physics with three years experience in Environmental Quality Management.

CHAPTER XII

Appeals

19. Memorandum of appeal.—(1) Every appeal against an order passed by the State Board under section 20, section 21 or section 22 shall be filed by the aggrieved party in Form VIII.

(2) Every aggrieved person preferring an appeal shall do so separately in his own name and no joint appeal made on behalf of more than one person shall be entertained by the appellate authority.

- (3) (a) Every appeal shall—
- (i) be in writing,
 - (ii) specify the name and address of the appellant and the date of the order appealed against.
 - (iii) specify the date on which the order appealed against was communicated to the appellant.
 - (iv) contain a clear statement of facts of the case and grounds relied upon by the aggrieved person in support of the appeal,
 - (v) state precisely the relief prayed for, and
 - (vi) be signed and verified by the appellant or an agent duly authorised by the appellant in writing in this behalf.
- (b) Every appeal shall be accompanied by—
- (i) an authenticated copy of the order against which appeal is made,
 - (ii) a copy of the application made under sections 20, 21 or under section 22 as the case may be,
 - (iii) any document relative to the appeal, and
 - (iv) a satisfactory proof of the payment of the specified fee.
- (c) A fee as specified by the Board shall be deposited by every appellant in the office of the appellate authority and an authenticated copy of the receipts obtained therefore shall be annexed to every appeal. No appeal which is not accompanied by the aforesaid copy of the receipt shall be entertained by the appellate authority.
- (d) Every memorandum of appeal shall be submitted in quadruplicate and shall either be presented to the Appellate Authority by the appellant or his authorised agent in person or sent to such authority by registered post. When the memorandum of appeal is presented by an agent duly authorised by the appellant, it shall be accompanied by a letter of authority written on a stamped paper of the value as required by law, appointing him as such an agent.
- (e) On receipt of the memorandum of appeal, the appellate authority shall endorse thereon the date of its presentation or receipt by post and the name of the appellant or his duly authorised agent presenting it, as the case may be.

20. *Procedure to be followed by the Appellate Authority in dealing with and disposal of the appeal.*—(1) The Appellate Authority shall, as soon as may be after the memorandum of appeal is filed before it, fix a date for hearing of the appeal and give intimation of the same to the appellant and the Member-Secretary in Form VIII. While giving such intimation to the Member-Secretary, a copy of the memorandum of appeal together with its enclosures shall also be sent to the Member-Secretary and he shall be called upon to send to the Appellate Authority, all the relevant records connected with the matter relating to the appeal.

(2) Where the material on record is insufficient to enable the Appellate Authority to come to a decision, it may take additional evidence and call for such further material from the appellant or Member-Secretary as it deems fit. Such material shall form part of the record but not before the party other than that from whom such record has been received has been given an opportunity to pursue such record, itself against anything contained therein which is detrimental to the interests of that party.

(3) Where on the date fixed for hearing or any date to which the hearing of the appeal may be adjourned, the appellant or his duly authorised agent does not appear when the appeal is called for hearing, the appeal shall be liable to be dismissed.

(4) Where an appeal is dismissed under sub-rule (3) the appellant may within 30 days from the dismissal of the appeal apply to the appellate authority for the restoration of the appeal and if it is shown to the satisfaction of the appellate authority that the appellant had not received intimation of the date of hearing of the appeal or was prevented by any cause, sufficient, in the opinion of the appellate authority, from appearing when the appeal was called for hearing, the appellate authority may restore the appeal on such terms as it thinks fit.

(5) *Order to be in writing*—The order passed by the Appellate Authority on the appeal shall be in writing and shall state clearly the points before it for determination, the decision thereon, and the reasons for the decision.

(6) *Supply of copy of order to the appellant and the Board*.—A copy of the order passed in appeal shall be supplied by the appellate authority free of cost to the appellant and a copy thereof shall also be sent to the Member Secretary.

CHAPTER XIII

The Particulars to be contained in the consent register

21. *Consent register*.—The Board shall maintain a register in Form VI containing particulars of industrial plant to which consent has been granted under section 21.

CHAPTER XIV

Temporary association of persons

22. *Manner and purpose of association of persons and fees and allowances to be paid for such association*.—Manner in which and purpose for which any person may be temporarily associated with the Board in performing any of its functions under the Act will be as provided in the rule notified (vide notification No Env/458/2R-4/82, dated the 12th May 1983) under section 10 of the Water (Prevention and Control of Pollution) Act, 1974.

CHAPTER XV

Functions to be performed by the Board

23. *Functions of the Board*.—The Board shall perform such functions as may be specified by the State Government, in consultation with the State Board in writing from time to time.

CHAPTER XVI

Miscellaneous

24. *Miscellaneous*.—In respect of matters relating to the—

- (i) terms and conditions of service of the Chairman, member-Secretary and Members of the Board ;
 - (ii) procedure for transaction of business of the Board ;
 - (iii) temporary association of persons with the Board ;
 - (iv) powers and duties of the Member-Secretary of the Board ;
 - (v) budget and accounts of the Board ;
 - (vi) annual report on the activities of the Board ; and
 - (vii) any other matter which has not been specifically mentioned,
- the Board shall follow the provisions of the relevant rules made under the Water (Prevention and Control of Pollution) Act, 1974.

FORM XVI

(See rule 10)

To be submitted in triplicate

Application for consent for emission/continuation of emission under
section 21 of the Air (Prevention and Control of Pollution) Act,
1981

FORM :

Dated :

To : The Member-Secretary,
West Bengal Pollution Control Board.

Sir,

I/We hereby apply for CONSENT under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) to make emission from industrial plant owned by (1) ... :
for a period up to (2)... ..

2. The annexure, appendices, other particulars and plans are attached herewith in triplicate.

3. I/We further declare that the information furnished in the annexure/appendices, and plans is correct to the best of my/our knowledge.

4. I/We hereby submit that in case of a change either of the point or the quantity of emission or of its quality a fresh application for CONSENT shall be made and until such consent is granted, no change shall be made.

5. I/We hereby agree to submit to the Board, application for renewal of CONSENT one month in advance of the date of expiry of the consented period for emission, or to be continued thereafter.

6. I/We undertake to furnish any other information within one month of its being called for by the Board.

Yours faithfully,

Signature.....

Name of Applicant :

Address of Applicant :

Accompaniments :

- (i) Index/site Plan.
- (ii) Topographical map.
- (iii) Detailed layout plan of different processes and point sources of emissions and position of stacks and chimneys.
- (iv) Process flow sheet.
- (v) Latest Analysis Report.
- (vi) Details of air pollution control devices provided or proposed to be provided.
- (vii) Ambient air quality report, if available.
- (viii) Draft No... .., dated... .., for
Rs... .. drawn on... .. as consent
fee.

ANNEXURE TO FORM
(omitted)

FORM II
WEST BENAGL POLLUTION CONTROL BOARD
NOTICE OF INSPECTION

[See rule 11(2).]

(omitted)

FORM III
WEST BENGAL POLLUTION CONTROL BOARD
Notice of intention to have sample analysed.

[See rule 14]

(omitted)

FORM IV
Report by the State Board Analyst

[See rule 15]

(omitted)

FORM V
Report by the Government Analyst

(See rule 16)

(omitted)

FORM VI
(See rule 21)

Under rule 21 the following shall be the form of the register to be maintained in respect of consents to be issued under section 21 of the Act.

(omitted)

FORM VII
Form of appeal under section 31 of the Air (Prevention and Control
of Pollution) Act, 1981 (14 of 1981)

*[See rule 19 (1)](a)]

Before... ..Appellate Authority constituted under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) Memorandum of appeal of Shri... .. (Appellant)

West Bengal Pollution Control Board.. ..(respondent)

The appeal of Shri Resident of.. ..

... ..District.. .. against the order dated... .. passed by the West Bengal Pollution Control Board under sections 20/21/22 of the Air (Prevention and Control of Pollution) Act, 1981, sheweth as follows :—

(1) Under sections 20/21/22 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981)), the appellant has been granted consent subject to the condition mentioned in the consent order in respect of the company/corporation/municipality/notified area committee etc., noted below :

(a) Name of plant/company/corporation/municipality/notified area committee : (Here mention the grounds on which appeal is made).

(b) Place... ..

(c) Card No... ..

(d) Name of the street, and.. ..

(e) District.. ..

A copy of the consent order in question is attached hereto.

(2) The facts of the case are as under
(Here briefly mention the facts of the case.)

*Here mention the name and designation of the authority.

(3) The grounds on which the appellant relies for the purpose of this appeal are as below :—

(Here mention the groundson which appeal is made.)

1.

2.

3.

4. In the light of what is stated above, the appellant respectfully prayeth that—

(a) the unreasonable conditions.... ..imposed should be treated as annulled or it/they should be constituted for such other conditions it appears to be reasonable, or

(b) the unreasonable condition(s).....should be varied in the following manner :—

[Here mention the manner in which the condition(s) are objected to]

An amount of Rs.. ..as fee for this appeal has been paid vide receipt No.. ..dated... ..an authorised copy of which is attached in proof of payment.

Signature of the Appellant

(Name in Block Letters)

Occupation.. ..

Address.. ..

Date :

Verification

I... ..(appellant's name) in the above memorandum of appeal/or duly authorised agent to/does hererby declare that what is stated therein is true to the best of may knowledge and belief and nothing has been hidden thereunder:

Signature.. ..

Name... ..

(Block Letters)

Occupation... ..

Address.. ..

Dated :

Strike out what is not applicable.

FORM VIII

[See rule 20(1).]

Before *.. ..Appellate Authority as constituted under section 31(1) of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981)

In the matter of appeal No... ..19.. ..filed under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), by Shri.....(here mention the name and address of the appellant)

Whereas Shri... ..(here mentiom the name and address of the apellant) has filed before this Authority a memorandum of appeal against order No.. ..dated.. ..passed by West Bengal Pollution Control Board under sections 20/21/22 of the Act ;

And whereas under sub-section (4) of section 31 of the Act, this authority is required to give to the parties an opportunity of being heard ;

Now, therefore, please take notice that this authority has fixed..... as the date of hearing of the aforesaid appeal. The hearing shall take place at..... a m./p.m. on that date in the office of the Board at Calcutta. You are hereby called upon to, appear before this authority at the appointed time and date and place, either in person or through a duly authorised agent, and explain your case. Please take notice that failure on your part to appear on the day of hearing either in person or through a duly authorised agent, without showing sufficient cause to the satisfaction of this authority will make your appeal liable to be dismissed or decided *ex parte*.

Given under the hand and seal of the Appellate Authority at..... this.....day.....

*Here mention the name and designation of the Authority.

Delete whatever is not applicable.

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 748, dated November 22, 1983

LAND AND LAND REFORMS DEPARTMENT

No. 1383-L. Ref.—(9th November 1983) —In exercise of the power conferred by section 60 of the West Bengal Land Reforms Act, 1955 (West Ben Act X of 1956), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section, the following amendments in the West Bengal Land Reforms Rules, 1965 as subsequently amended (hereinafter referred to as the said rules), namely :—

Amendments

In the said rules,—

(1) in sub-rule (2) of rule 21 after the words “as the case may be” add the following :—

The statements in the certificate so granted shall be presumed to be correct and the presumption attaching to the finally published record-of-rights shall also attach to the certificate.

(2) in explanation II to clause 5 of schedule A, after the word “as the State Government may prescribe”, add the following —

“The statement in the certificate so given shall be prescribed to be correct and presumption attaching to the finally published record-of-rights shall also attach to such certificate.”

Published in the *Calcutta Gazette, (Ext.)*, Part I, No. 307, dated May 4, 1984

DEPARTMENT OF LOCAL GOVERNMENT URBAN DEVELOPMENT

No. 315/C-4/M3R-9/83.—(2nd April, 1984) —In exercise of the power conferred by section 600, read with sections 50 and 56, of the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of section 600 of the said Act, the following rules :—

Rules

PART I

1. *Short title.*—These rules may be called the Calcutta Municipal Corporation Electoral (Preparation of Electoral Roll) Rules, 1984.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(i) “the Act” means the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980) ;

(ii) “constituency” means a constituency of the Corporation referred to in sub section (2) of section 5 read with Schedule II to the Act ;

(iii) “Corporation” means the Calcutta Municipal Corporation as constituted under the Act ;

(iv) “Form” means a form appended to these rules ;

(v) “Municipal Commissioner” means the Municipal Commissioner of the Corporation appointed under the Act ;

(vi) “printed copies” include copies made by cyclostyle, lithograph or any other mechanical mode of reproduction ;

(vii) “roll” means the electoral roll for a constituency of the Corporation ;

(viii) “section” means a section of the Act.

PART II

3. *Manner of preparation of the electoral roll.*—(1) There shall be a separate electoral roll for each constituency of the Corporation, there being several parts for different areas within each constituency.

(2) The electoral roll shall be prepared in English and contain the names of every person qualified to vote in the constituency in accordance with the provisions of the Act.

(3) The Election Authority shall collect or cause to be collected information by house-to house enumeration as in Form I and shall prepare or cause to be prepared a complete preliminary roll for each constituency in Form II.

(4) The Election Authority shall divide each electoral roll into convenient parts, each with reference to a street or locality in the constituency as indicated in Form II.

(5) The names of persons in each part of the electoral roll shall be arranged according to house number, unless the Election Authority, subject to any general or special instructions issued by the State Government in this behalf, determines in respect of any part that the alphabetical order is more convenient.

(6) The names of persons in each part of the electoral roll shall be numbered, so far as practicable, consecutively with a separate series of numbers for each part beginning with the number one.

(7) The Election Authority may, for the purpose of preparing the electoral roll, send letters of request in Form III to the occupants of dwelling houses in the constituency or any part thereof and every person receiving any such letter shall furnish the information called for therein to the best of his ability.

(8) For the purpose of preparing any electoral roll or deciding any claim or objection to an electoral roll, the Election Authority or any person employed by him for the purpose shall have access to any register of births or deaths and to the admission register of any educational institution, and it shall be duty of every person in charge of any such register to give the said Authority or person such information and such extracts from the said register as he may require, free of charge.

4. *Publication of the preliminary electoral roll, inviting claims, objections, etc*—(1) After the preliminary electoral roll for every constituency has been made ready, the Election Authority shall publish the same for public inspection at—

- (a) its office ;
- (b) the Central Municipal Office of the Corporation ;
- (c) the Municipal District Office or such other office or offices of the Corporation as the Election Authority may think fit, situated within the constituency concerned, or within the jurisdiction of which the constituency or any part of it may be situated ;
- (d) one or more of the police stations, situated within the constituency or within the jurisdiction of which the constituency or any part of it may be situated ; and
- (e) municipal markets situated within the constituency.

(2) Along with the publication of the electoral roll under sub-rule (1) the Election Authority shall also give a public notice in Form IV in every constituency and at all the places of publication mentioned in sub-rule (1) stating that the roll is available for inspection at these place and that claims and objections, if any, shall be preferred in the form and manner as specified in the notice.

(3) The Election Authority shall also immediately given further publicity to the notice in Form IV by advertising the notice in such local news papers as it thinks fit.

5. *Sale of printed copies*.—Printed copies of the preliminary electoral roll published under rule 4 shall be sold to the public at price fixed by the Election Authority with the approval of the State Government :

Provided that the Election Authority shall supply free of cost two copies of the preliminary electoral roll for each constituency to every political party for which a symbol has been exclusively reserved in the State by the Election Commission of India.

6. *Period for lodging claims and objections*.—Every claim for inclusion of a name in the electoral roll and every objection to an entry therein shall be lodged within a period of fifteen days from the date of publication of the preliminary electoral roll under rule 4 :

Provided that the State Government may, be order, extend the period in respect of any constituency.

7. *Forms for claims, objections and corrections*.—(1) Every claim shall be—

- (a) in Form V ;
- (b) signed by the person desiring his name to be included in the electoral roll ; and
- (c) countersigned by another person whose name is already included in that part of the roll in which the claimant desires his name to be included.

(2) Every objection to the inclusion of a name in the electoral roll shall be—

- (a) in Form VI ;
- (b) preferred only by a person whose name is already included in that roll ; and
- (c) countersigned by another person whose name is already included in that part of the roll in which the name objected to appears.

(3) Every objection for correction in respect of any entry in the electoral roll shall be—

(a) by application in Form VII or VIIA, as may be appropriate; and

(b) preferred only by the person to whom that entry relates.

8. *Manner of lodging claims and objections.*—(1) Every claim or objection shall be addressed to the Election Authority and be presented to the said authority or be sent by registered post to the Election Authority at its office.

(2) The Election Authority shall not entertain any claim or objection after 5 p.m. of the last date for filing claims and objections mentioned in rule 6

(3) Any claim or objection which is not lodged within the period or in the form and manner, herein specified, shall be rejected by the Election Authority.

(4) A claim or an objection shall be presented individually, provided, however, that if individual claim or objections relating to the members of the same household are presented, they may be accepted together.

9. *Maintenance of lists of claims and objections.*—The Election Authority shall—

(a) maintain in duplicate a list of claims in Form VIII, a list of objections in Form IX and a list of objections to particulars in entries in Form X; and

(b) keep exhibited one copy of each such list on the notice board in its office for public inspection.

10. *Disposal of claims and objections* —(1) If the Election Authority is satisfied as to the validity of any claim or objection, it may allow it without any further enquiry after the enquiry of one week from the date on which it is entered in the list exhibited under clause (b) of rule 9 :

Provided that where before any such claim or objection has been allowed, a demand for enquiry has been made in writing to the Election Authority, it shall not be allowed without further enquiry

(2) Where claim or objection is not disposed of under sub-rule (3) of rule 8 or under sub-rule (1) of this rule, the Election Authority shall give notice of the hearing fixing place and time—

(a) in the case of a claim, to the claimant in Form XI ;

(b) in the case of an objection to the inclusion of a name, to the objector in Form XII and to the person objected to in Form XIII ; and

(c) in the case of an objection to a particular entry, to the objector in Form XIV.

(3) A notice of hearing under this rule may be given either personally or by registered post or by affixing it to the concerned persons residence or last known residence within the constituency.

(4) The Election Authority shall hold a summary inquiry into every claim or objection in respect of which notice has been given under this rule and record its decision thereon.

(5) At the hearing, the claimant, or as the case may be, the objector and the person objected to and any other person who, in the opinion of the Election Authority, is likely to be of assistance to it, shall be entitled to appear and be heard.

(6) The Election Authority may in its discretion—

(a) require any claimant or objector or person objected to appear in person before it ; and

(b) require that the evidence tendered by any person shall be given on oath and administer an oath for the purpose.

11. *Inclusion of names inadvertently left out and deletion of names of dead persons and persons who ceased to be or are not ordinarily residents.*—(1) If it appears to the Election Authority that owing to inadvertence or error during preparation of an electoral roll the names of some persons have been left out of the electoral roll and that remedial action shall be taken under this rule, the Election Authority shall,—

(a) prepare a list of the names and other details of such person ;

(b) exhibit on the notice board of its office a copy of the list together with a notice as to the time and place at which the inclusion of these names in the electoral roll shall be considered and shall also publish the list and the notice in such other manner as it may think fit ; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names shall be included in the electoral roll.

(2) If it appears to the Election Authority during preparation of the electoral roll that owing to inadvertence or error or otherwise the names of dead persons or of persons who ceased to be, or are not, ordinarily residents of Calcutta have been included in the roll and that remedial action should be taken under this rule, the Election Authority shall—

(a) prepare a list of the names and other details of such persons ;

(b) exhibit on the notice board of its office a copy of the list together with a notice as to the time and place at which the question of deletion of these names from the roll shall be considered, and also publish the list and the notice in such other manner as it may think fit ; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names shall be deleted from the electoral roll :

Provided that before taking any action under this rule in respect of any person on the ground that he ceased to be, or is not ordinarily resident of Calcutta the Election Authority shall make every endeavour to give him a reasonable opportunity to show cause why the action proposed shall not be taken in relation to him.

12. *Final publication of electoral roll.*—(1) The Election Authority shall thereafter—

(a) prepare a list of amendments or errata, as the case may be, of the electoral roll to carry out its decisions under rules 10 and 11 and to correct any clerical or printing errors or other inaccuracies subsequently discovered in the electoral roll ; and

(b) publish the electoral roll together with the list of amendments and or errata, by making a complete copy thereof available for inspection, and displaying a notice of such publication in Form XV, at—

(i) the office of the Election Authority ;

(ii) the Central Municipal Office of the Corporation ; and

(iii) the Corporation District Office or District Office situated within the constituency concerned, or within the jurisdiction of which the constituency or any part of it may be situated.

(2) On such publication, the electoral roll together with the list of amendments and/or errata shall be the electoral roll of the constituency.

(3) Where the roll (hereinafter in this sub-rule referred to as the basic roll), together with the list of amendments and/or errata, becomes the electoral roll for a constituency, the Election Authority may for convenience of all concerned, integrate, subject to any general or special directions issued by the State Government in this behalf, the list of amendments and/or errata with the basic roll by including the names of persons in the said list together with all particulars relating to such persons in the relevant parts of the basic roll itself, so, however, that no change shall be made in process of such integration in the name of any person or in any particulars relating to any person as given in the list of amendments and/or errata.

13. *Correction of entries in the electoral roll under sub-section (4) of section 56.*—(1) Every application under sub-section (4) of section 56 shall be made in duplicate in Form VII or VIIA as may be appropriate and shall be accompanied by a challan or receipt showing payment of a fee of fifty paise either to the Corporation Treasury or to the Election Authority.

(2) The Election Authority shall, immediately on receipt of such application, direct that one copy thereof be displayed in some conspicuous place in its office with a notice inviting objections to such application within a period of seven days from the date of such display.

(3) The Election Authority shall, as soon as may be after the expiry of the period specified in sub-rule (2), consider the objections, if any, received by it or upon such enquiry as it thinks fit shall, if satisfied that the entry is erroneous or defective, make order accordingly and correct the entry in the electoral roll :

Provided that when an application is rejected by the Election Authority it shall record in writing a brief statement of reasons for such rejection.

14. *Appeal from decisions or orders of the Election Authority under section 57.*—(1) An appeal shall lie from any decision of the Election Authority under rules 10, 11 and 12 :

Provided that no appeal shall lie where the person desiring to appeal has not availed himself of his right to be heard by, or to make representation to, the Election Authority on the matter which is the subject of appeal.

(2) Every appeal under sub-rule (1) shall be—

(a) in the form of a memorandum signed by the applicant ;

(b) accompanied by a copy of the order appealed against and a challan or receipt showing deposit of Rs. 3 only with the Corporation Treasury or the Election Authority ; and

(c) presented within the time as laid down in section 57 to such Appellate Authority as the State Government may, by notification appoint

(3) Every decision of the Appellate Authority shall be final.

(4) The Election Authority, on being informed, shall immediately cause such amendments to be made in the electoral roll as may be necessary to give effect to the decisions of the said Appellate Authority.

15. Revision of electoral roll under sub-section (3) of section 56.—

(1) The Election Authority shall, unless otherwise directed by the State Government for reasons to be recorded in writing, revise the electoral roll for Calcutta before each general election, and before each bye-election to fill a casual vacancy in a seat of a Councillor, in respect of such constituency.

(2) The roll shall be revised either intensively or summarily, as the State Government may direct.

(3) When the roll is to be revised intensively in any year it shall be prepared afresh and rules 3 to 14 shall apply in relation to such revision as they apply in relation to the first preparation of the roll.

(4) When the roll is to be revised summarily in any year, the Election Authority shall publish for public inspection such roll in draft in the manner as provided in rule 4, inviting claims and objections thereto, with a public notice in Form XVI to be published in the manner as specified in rule 4 followed by the provision for sale or supply of printed copies as contained in rule 5 and thereafter the provisions of rules 6 to 14 shall apply to such revision in respect of preparation of the list of amendments and/or errata to the relevant parts of the roll and for final publication of the roll under revision together with such list of amendments and/or errata.

PART III

Preservation and destruction of Electoral Rolls

16. Custody and preservation of electoral rolls and connected papers.—(1)

After the electoral roll has been finally published, the following papers shall be kept in the general record room of the Central Municipal Office of the Corporation :—

(i) enumeration pads showing house-to-house enumeration of persons for preparation of the preliminary electoral rolls for the constituencies :

(ii) manuscripts of the preliminary electoral rolls as prepared for printing ;

(iii) claims and objections in Forms V, VI and VII as disposed of under the rules, along with the lists in Forms VIII, and IX and X and the connected papers, is any ;

(iv) papers relating to appeals under rule 14 ; and

(v) final electoral rolls, namely, electoral rolls published under rule 12 including electoral rolls revised under rule 15.

(2) Three complete copies of the final electoral roll for each constituency, duly authenticated by the Election Authority, shall be preserved permanently in the record room of the Central Municipal Office of the Corporation.

17. Inspection of electoral rolls and connected papers.—Every person shall have the right to inspect papers referred to in rule 16 and to get attested copies thereof on payment of such fee as may be determined by the Municipal Commissioner.

18. Destruction of electoral rolls and connected papers.—(1) The papers referred to in clauses (i), (ii), (iii) and (iv) of sub-rule (1) of rule 16 shall be preserved for one year unless their retention for a longer period is ordered by the Election Authority or by a court of competent jurisdiction. On the expiry of such period of preservation these papers may be destroyed in such manner as the Election Authority may decide.

(2) Copies of the final electoral roll for any constituency in excess of the number required for permanent preservation under sub-rule (2) of rule 16 shall be destroyed at such time and in such manner as the Election Authority may decide with the approval of the State Government and until such destruction, shall be made available for sale to the public.

PART - IV

General

19. *Municipal Commissioner to assist the Election Authority.*—It shall be the duty of the Municipal Commissioner to render necessary assistance to the Election Authority in the discharge of his duties under these rules.

20 *Sale of printed copies of final electoral roll.*—Printed copies of the final electoral rolls shall, as far as possible, be sold to the public at such price as may be fixed, from time to time, by the Election Authority with the approval of the State Government.

21. *Payment of costs for preparation, etc., of electoral rolls out of the Municipal Fund of the Corporation.*—All costs incurred for preparation, publication, revision and maintenance of the electoral rolls, publication of notices and taking any other action under these rules shall be payable out of the Municipal Fund of the Corporation.

22. *Officers and staff to be deemed to be public servants.*—All Officers and staff engaged for preparation, revision and publication of the roll shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

FORM I

[See rule 3(3).]

Constituency No.

Name of Street or Locality.....

Premises No... ..

Serial No.	Name of person	Name of Father/Husband/ Mother	Male or Female	Age on
------------	----------------	-----------------------------------	-------------------	--------

Total number of persons in the page (in words).....

I solemnly declare that the particulars given above are true to the best of my knowledge and belief and that none of the names of the persons mentioned above has been included in the electoral roll for any other constituency.

Signature of the enumerator
with date.

Signature of the head of the household/any other senior member of the family.

FORM II to XIV

(omitted)

Published in the *Calcutta Gazette*, (Ext.), Part I, No. 525. dated
October 12, 1982

EDUCATION DEPARTMENT

No. 555Edn(P)/1OR-1/81.—(5th October 1982).—In exercise of the power conferred by sub-section (1), and in particular, by clause (a) of sub-section (2) of section 106 of the West Bengal Primary Education Act, 1973 (West Ben Act XLIII of 1973) and in supersession of this department notification No. 20.0-Edn(P), dated the 6th December 1975, the Governor is pleased hereby to make, after previous publication as required under sub-section (1) of the said section, the following rules :

RULES

CHAPTER I

Preliminary

1. *Short title*.—These rules may be called the West Bengal Primary Education (Conduct of Election to the West Bengal Board of Primary Education) Rules, 1982.

(Text of the rules omitted.)

Published in the *Calcutta Gazette*, (Ext.), Part I, No. 177, dated April
27, 1982

DEPARTMENT OF FOOD AND SUPPLIES

No. 3842/F. S./CG/14R-2/82.—(22nd April 1982).—Whereas the Governor is of opinion that it is necessary and expedient so to do for maintaining supplies and for securing equitable distribution and availability at fair prices of cement in West Bengal ;

Now, therefore, in exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the Government of India, Ministry of Industries and Civil Supplies (Deptt of Civil Supplies and Cooperation) Order No. SO-681(E) dated the 30th November 1974, the Governor is pleased hereby to make the following Order :—

1. *Short title, extent and commencement*—(1) This Order may be called the West Bengal Licensing of Dealers of Cement and Distribution of Levy Cement Order, 1982.

(2) It extends to the whole of West Bengal.

(3) It shall come into force at once.

2. *Definitions*.—In this order, unless the context otherwise requires,—

(a) “bulk distributor” means such person or class of persons or officer of the State Government or a State Government undertaking in West Bengal as may be appointed by the State Government to act as its agent to procure levy cement which a producer is required by the Central Government to sell under the provisions of the Cement Control Order, 1967, issued by the Central Government and published under No. S. O.-4590/IDRA/18G/67, dated the 23rd December 1967, in Part II, section 3, sub-section (ii), of the Gazette of India, Extraordinary, of the 26th December 1967, as subsequently amended, for its distribution in West Bengal in accordance with the provisions of this Order, and such directions as may be issued by Government from time to time ;

(b) “cement” includes imported cement, levy cement and non-levy cement but does not include oil-well cement, white cement and coloured cement not being grey portland cement ;

(c) “Collector” includes an Additional Collector and such other officer not below the rank of a Subdivisional Officer, as may be authorised

by the Collector to perform the functions and exercise the powers of the Collector under this Order ;

(d) "consumer" means a person or an institution requiring cement for own use on the construction of a residential or non-residential building or in other types of works involving use of cement ;

(e) "dealer" means a person who is engaged in any business or undertaking involving sale, or purchase for sale, or storage for sale, of cement, either on his own behalf or on behalf of any other person, but does not include a bulk distributor or a producer ;

(f) "form" means a form appended to this Order ;

(g) "Government" means the Government of the State of West Bengal ;

(h) "levy cement" shall have the meaning assigned to it in sub-clause (d) of clause 2 of the Cement Control Order, 1967, referred to in clause (a) ;

(i) "licensee" means a person holding a valid licence granted under this Order ;

(j) "licensing authority" means the Director of Consumer Goods in the Department of Food and Supplies of the Government, and includes such other officer of Government as may be authorised by him in writing, with the prior approval of Government, to perform all or any of the functions of the licensing authority ;

(k) "non-levy cement" shall have the same meaning assigned to it in sub-clause (e) of clause 2 of the Cement Control Order, 1967, referred to in clause (a) ;

(l) "permit issuing authority" means the Director of Consumer Goods in the Department of Food and Supplies of the Government or any officer authorised by him in writing in this behalf and includes a Subdivisional Controller of Food and Supplies under the said Department having jurisdiction ;

(m) "place of business" means the place where the books of account of business of a licensee are kept and orders and offers involving purchase or sale of cement are received by him ;

(n) "producer" shall have the meaning assigned to it in the Cement Control Order, 1967, referred to in clause (a) ;

(o) "special category consumer" means any Department of Government, or any Corporation or undertaking owned or controlled by Government, or any local body, or a unit in the small scale industries sector requiring cement for construction of factory buildings, or any person or party who requires cement for such specially oriented schemes as may be specified by Government from time to time.

3. *Licensing of dealers.*—No person shall carry on business in cement as a dealer except under and in accordance with the terms and conditions of a licence granted under this Order.

4. *Application for and grant of licence.*—(1) An application for a licence under paragraph 3 shall be made to the licensing authority in Form A, and the licensing authority may on due consideration of the provisions of paragraph 6 issue a licence in Form B on payment of a fee of Rs 200 (Rupees two hundred) in non-judicial stamp.

(2) Every licence shall specify the licensee's place of business and the area within which, and the premises or places within the said area at which,

he shall carry on business and store cement :

Provided that separate licence shall be obtained for each separate place of business.

(3) No licensee shall carry on his business in cement except within the area, or store cement except at the premises or places, specified in the licence.

(4) Every licence granted under this Order shall be valid up to the 31st March, next following the date of its issue and may, at the discretion of the licensing authority, be renewed for a period not exceeding three years at a time on an application made in this behalf to such authority before the expiry of the period of validity of the licence and on payment of a fee at the rate of Rs. 200 (Rupees two hundred) per year in non-judicial stamp ;

Provided that the period of validity of licence shall not be deemed to have expired if an application for its renewal made in accordance with the provisions of this sub-paragraph is pending with the licensing authority.

(5) If a licence is defaced, mutilated, lost or destroyed, the licensing authority may, after making such enquiry as it deems necessary, issue a fresh licence in place thereof on payment of a fee of Rs. 250 (Rupees two hundred and fifty) in non-judicial stamp, and thereupon the licence that is defaced, mutilated, lost or destroyed shall be deemed to have been cancelled.

5. *Furnishing of returns.*—(1) Every licensee shall, within 24 hours of his receiving any consignment of cement, report to the licensing authority and the Subdivisional Controller in the Department of the Food and Supplies having jurisdiction the following particulars regarding such consignment :—

- (i) quantity,
- (ii) place from where imported,
- (iii) railway station or dump or godown from where received, and
- (iv) premises or places at which the cement is stored or is proposed to be stored.

(2) Every licensee shall maintain separately for each place of business a register containing correct and true accounts of purchase, sale and storage of cement at premises or places, to be written up at the end of each day. The register shall show—

- (a) the opening stock of the day,
- (b) the quantity received during the day,
- (c) the quantity delivered or otherwise disposed of during the day,
- (d) the closing stock of the day, and
- (e) such other particulars as the licensing authority may, by order in writing, specify.

(3) Every licensee shall submit to the licensing authority and the Subdivisional Controller in the Department of Food and Supplies having jurisdiction a return in Form C for every month so as to reach it within seven days of the close of the month.

6. *Power of licensing authority to refuse to grant or renew a licence.*—

(1) The licensing authority may, after giving the applicant an opportunity of stating his case in writing and for reasons to be recorded in writing, refuse to grant or renew a licence :

Provided that in exercising its power under this sub-paragraph the

licensing authority shall have due regard to—

- (a) the number of licences already issued under this Order in respect of the locality,
- (b) the availability of cement in the locality,
- (c) the pattern of trade and commerce in cement in the locality,
- (d) contravention, if any, of the provisions of this Order or of any other law in force for the time being relating to cement, by the applicant,
- (e) the financial capacity of the applicant,
- (f) exclusive possession of a godown for storing cement which admits of easy identification,
- (g) the location and suitability of the premises or places in which the godown is situate, and
- (h) other relevant matters.

(2) The licensing authority may, either on the basis of any representation in writing of a licensee, or on its own motion, after making such enquiry as it considers necessary, amend or vary the terms and conditions of a licence.

7. *Power of licensing authority to suspend or cancel a licence.*—(1) No licensee shall contravene any of the conditions of his licence and any contravention thereof shall be a contravention of this Order.

(2) If a licensee or any person acting on his behalf contravenes any of the provisions of this Order, or if the licensee contravenes any other law in force for the time being relating to cement, then, notwithstanding anything contained in paragraph 4, and without prejudice to any other action that may be lawfully taken against him, the licensing authority may, by order, suspend the licence, and after giving the licensee an opportunity of stating his case in writing, cancel the licence.

(3) Notwithstanding anything contained in sub-paragraph (2), where a licensee has been convicted by a court of law in respect of a contravention of any law relating to cement, the licensing authority may, forthwith or as soon as possible thereafter, by order, cancel his licence :

Provided that where such conviction is set aside on appeal or revision the licensing authority may re-issue the licence to him, on an application being made to it.

(4) On cancellation or suspension of a licence under sub-paragraph (2) or sub-paragraph (3) or on licence ceasing to be valid, the licensee shall surrender the same to the licensing authority forthwith and shall dispose of the stock of cement available with him on such date not later than a fortnight from the date of surrender of the licence as may be fixed, and in accordance with such directions as may be issued by the licensing authority.

8. *Appeal.*—(1) Any person aggrieved by an order passed by the licensing authority under paragraph 6 or paragraph 7 may, within 30 days of the receipt by him of such order, prefer an appeal to the Secretary to the Government in the Department of Food and Supplies.

(2) On receipt of an appeal under sub-paragraph (1), the Secretary shall after giving the appellant a reasonable opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) The Secretary before whom an appeal is pending may direct that the order of the licensing authority appealed against shall not take effect pending the disposal of the appeal.

9. *Power of entry, enquiry, search and seizure.*—(1) The licensing authority or any officer authorised by the licensing authority or any officer in the Department of Food and Supplies of the Government not below the rank of a Sub-Inspector or any police officer not below the rank of an Assistant Sub-Inspector may, with a view to securing compliance with the provisions of this Order,—

(a) inspect or cause to be inspected any book or document or accounts as well as any stock of cement belonging to or under the control of any person,

(b) require any person to give any information in his possession with respect to any business or undertaking for purchase, sale or storage of cement,

(c) stop and search forthwith, with such aid or assistance as may be necessary, any person or vehicle or vessel used or suspected of being used for delivery of cement from a godown or from premises or places where, he has reason to believe, cement is stored,

(d) enter and search, with such aid or assistance as may be necessary, any such godown or premises or places, and

(e) seize and remove, with such aid or assistance as may be necessary the entire quantity or any stock of cement along with the packages, coverings or receptacles in which such stock is found and the vehicles, vessels or any other conveyances used in carrying such stock, if he has reason to suspect that any provisions of this Order has been, is being, or is about to be, contravened in respect of such stock or any part thereof or in respect of any other stock of cement which, immediately before the contravention, was stored or possessed along with such stock, and thereafter, take or authorise the taking of all measures necessary for securing the production of the stock of cement, packages, coverings, receptacles, vehicles, vessels or other conveyances so seized before the Collector of the district or the Presidency-town under the provisions of sections 6A to 6D of the Essential Commodities Act, 1955 (10 of 1955) and for their safe custody pending such production :

Provided that in exercising the powers under this sub-paragraph, due regards shall be paid to the social and religious customs of the inmates or occupants of the premises or places.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to searches and seizures under this paragraph.

10. *Written authority for storage.*—No person other than a bulk distributor, a dealer or a consumer shall have in its possession or under his control any quantity of cement except under and in accordance with a written authority granted under this Order by the licensing authority or the Sub-divisional Controller in the Department of Food and Supplies having jurisdiction.

(2) An application for grant of a written authority shall be made to the authority mentioned in sub-paragraph (1) in Form D and the said authority, on being satisfied that applicant is a *bona-fide* storing agent of a bulk distributor or a consumer including a special category consumer, may grant a written authority in Form E to the applicant for storing cement.

(3) No person in whose favour such written authority is granted shall contravene any of the conditions subject to which it is issued and contravention of any such condition shall be deemed to be contravention of this Order.

(4) The provisions of paragraphs 6, 7 and 9 of this Order shall apply *mutatis mutandis* to such persons as have obtained a written authority mentioned in the preceding sub-paragraph.

11. *Allocation of levy cement.*—(1) With a view to maintaining supplies of levy cement to special category consumers and also to ensuring equitable distribution thereof at fair and reasonable prices to consumers of limited means requiring cement for constructing dwelling house or for repairing old buildings, the Director of Consumer Goods shall, on receiving intimation of allocation of levy cement by the Central Government, specify, with the prior approval of Government, the quantity of levy cement to be offered by the bulk distributor for sale to special category consumers or to licenses for sale against permits to consumers provided however that no such offer shall be made to a licensee who has not in a representation in writing given an undertaking to the licensing authority to abide by the condition that he will deal only in levy cement for the unexpired period for which his licence remains valid, or does not voluntarily give such an undertaking at the time of grant or renewal of his licence.

(2) An undertaking given in accordance with the provisions of sub-paragraph (1) shall be deemed to be a condition of the licence and the terms and conditions of the licence shall be deemed to have been varied in accordance with the provisions of sub-paragraph (2) of paragraph 6 upon such an undertaking being given, and any violation of the undertaking shall be deemed to be a violation of this Order.

12. *Persons eligible to apply for allotment of levy cement.*—The following categories of persons shall ordinarily be eligible to apply for authorisation or permit for issue of levy cement :

(a) a special category consumer ;

(b) such class or classes of consumers requiring cement for construction of dwelling house or repair to a dwelling house as may be specified by Government from time to time, having regard to the needs of the poorer sections of consumers, and availability of levy cement.

13. *Regulation of business in levy cement.*—(1) No licensee shall sell or otherwise dispose of any part of his stock of levy cement except on the basis of permits to be issued by the permit issuing authority or authorisation by officer mentioned in sub-paragraph (3) :

Provided that if any stock of cement remains undisposed of within 90 days of receipt the licensee shall forthwith bring the matter to the notice of the licensing authority who shall make all arrangements for disposal of the stock against permits within 15 days of receipt of communication from the licensee.

(2) An application for permit for issue of levy cement shall be made in Form F to the permit issuing authority who may after making such enquiry as it deems necessary issue permit in Form G either on a bulk distributor or on a licensee.

(3) A special category consumer shall obtain his requirement of

cement only from a bulk distributor and against authorisation of the Director of Consumer Goods in the Department of Food and Supplies or any officer to be nominated in this regard by Government.

(4) A consumer holding a valid permit shall obtain his requirement of cement only from a bulk distributor if the quantity of cement from which the permit is issued is 10 metric tonnes or above.

(5) No consumer who has obtained supply of levy cement shall use it except for the purpose for which such permit is granted.

(6) The licensees shall be subject to such directions as may be issued by Government.

14. *Power to exempt in special cases.*—If the Government having regard to the condition prevailing in any area considers it necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, exempt for such period and subject to such conditions as it may think fit to impose any class or classes of persons in that area from the operation of all or any of the provision of this Order.

15. *Order not to apply to certain cases.*—This Order shall not apply to—

(a) a department of the Central Government or any Central Government undertaking including the State Trading Corporation;

(b) any department of Government or any State Government undertaking in West Bengal;

Provided that a State Government undertaking in so far as it may act as a bulk distributor be subject to the provisions relating to bulk distributor under this order.

16. *Review and revision by Government.*—The Government may, of its own motion call for and examine the records of any order passed under the provision of this Order by any authority subordinate to Government and may give such direction with reference thereto as it may deem fit:

Provided that no direction to the disadvantage of any party shall be given under this paragraph, unless the party has been accorded an opportunity of making any representation which it may wish to make against such direction.

17. *Repeal and saving.*—The West Bengal Cement (Licensing and Control) Order, 1979 issued under order No. 2562-FS, dated the 31st March 1979, of the Food and Supplies Department and published in Part I of the "Calcutta Gazette, Extraordinary", of the 31st March 1979, as subsequently amended, is hereby repealed:

Provided that such repeal shall not affect—

(a) the previous operation of the said Order or anything done or suffered to be done thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Order except that the stock of cement with the licensees as on the date of this Order shall be available for disposal only against permit and in accordance with such direction as may be issued by Government,

(c) any penalty, forfeiture or punishment incurred in respect of any offence against the said Order, or

(d) any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punish-

ment as aforesaid, and/ all licenses issued under the said Order, shall, subject to the provision of paragraphs 10 and 11, remain valid for the unexpired term of the licence or up to the 30th June 1982, whichever is later.

FORM A

[See paragraph 4(1)]

FORM OF APPLICATION FOR LICENCE UNDER THE WEST BENGAL LICENSING OF DEALERS OF CE- MENT AND DISTRIBUTION OF LEVY CEMENT ORDER, 1982.

I hereby apply for licence under the West Bengal Licensing of Dealers of Cement and Distribution of Levy Cement Order, 1982, and furnish the following particulars in connection therewith :—

1. Applicant's name
2. Applicant's father's name
(in case of an individual)
3. Applicant's profession
4. Applicant's residence/address
5. Situation of applicant's business
premises (i. e. place of business)
with particulars as to village, ...
police-station and district
6. Location of godown(s) in exclusive
possession of the applicant, if any.
7. Area of business for which licence
is wanted.
8. How long the applicant has been
purchasing, selling or supplying
cement.
9. Particulars of current municipal
trade licence, if business is carr-
ied on within the jurisdiction of
a municipal area.

[I declare that the following quantities of cement are in my possession this day and are held at the following places... ..]

I have not previously applied for such licence/I applied for such licence on..... and/was not granted a licence was granted licence No.....on by

I declare that I am the Proprietor/Manager/Partner/Director/Secretary/Lessee of the firm or organisation on behalf of which this application is made.

Date.....

Signature of left thumb impres-
sion of the applicant.

FORM B

[See paragraph (4)]

LICENCE UNDER THE WEST BENGAL LICENSING OF DEALERS OF CEMENT AND DISTRIBUTION OF LEVY CEMENT ORDER, 1982

(omitted)

FORM C

[See paragraph 5(3)]

**RETURN OF STOCK, RECEIPTS AND SALES/SUPPLIES,
ETC. OF CEMENT FOR THE MONTH OF 19 UNDER
PARAGRAPH 5(3) OF THE WEST BENGAL LICEN-
SING OF DEALERS OF CEMENT AND DIS-
TRIBUTION OF LEVY CEMENT ORDER, 1982**

(omitted)

FORM D

[See paragraph 10(2)]

**FORM OF APPLICATION FOR WRITTEN AUTHORITY
UNDER THE WEST BENGAL LICENSING OF CE-
MENT AND DISTRIBUTION OF LEVY CEMENT
ORDER 1982.**

I hereby apply for a Written Authority under the West Bengal Li-
censing of Dealers of Cement and Distribution of Levy Cement Order
1982, to store cement as an agent and furnish the following particulars in
connection therewith :—

1. Applicant's name
2. Applicant's father's name.....
(in case of an individual)
3. Applicant's profession
4. Applicant's residence/address
5. Situation of applicant's business.....
premises (i. e. place of business)
with particulars as to village, ...
police-station and district.
6. Location of godown(s) in exclusive
possession of the applicants,
if any.
7. Consumer on whose behalf the
applicant proposes to store
cement.
8. Capacity of the godown (s).....
9. Particulars of current municipal
trade license, if business is
carried on within the jurisdiction
of municipality.

[I declare that the following quantities of cement are in possession
and are stored this day and are held in the following godowns———]

I have not previously applied for such Written Authority/I applied for
such Written Authority.....and/was not granted Written
Authority/was granted Written Authority/vide———,

I declare that I am the Proprietor/Manager/Partner/Director/Secretary
Lessee of the firm or Organisation on behalf of which this application is
made.

I enclose a true copy of the agreement in terms of which I am
storing/propose to store cement on behalf of———.

.....
Signature or Left Thumb
impression of the applicant.

Date

FORM E

[See paragraph 10 (2)]

**WRITTEN AUTHORITY FOR STORAGE OF CEMENT UNDER
THE WEST BENGAL LICENSING OF DEALERS OF CEMENT
AND DISTRIBUTION OF LEVY CEMENT ORDER, 1982.**

(omitted)

FORM F

[See paragraph 13(2)]

APPLICATION FOR SUPPLY/ALLOTMENT OF LEVY CEMENT

1. Name of the applicant
2. (a) Father's/Husband's name
(in the case of an individual)
(b) Applicant's status
(in the case of a firm)
3. Address with police-station
4. Purpose (construction/repair and details thereof including the total plinth area of the proposed construction and the area of land and total value of the work to be done).
5. Total quantity required with a break-up of monthly requirement
(in Metric Tonnes)
6. Address of the site with police-station where cement will be used.
7. Whether any permit/authorisation letter was received before ; if so, details thereof.
8. Whether any application for cement was submitted to the licensing authority prior to this application ; if so, details thereof.
9. Documents enclosed :
 - (1) Certified copies of :
 - (i) sanctioned plan/estimate in case of new construction in municipal or notified areas.
 - (ii) Plan/estimate in case of new construction in rural areas.
 - (iii) up to date municipal tax/rent receipts in case of repair.
 - (2) Any other document :

I solemnly affirm that the particulars given above are true.

.....
Signature

RECEIPT FORM FORM G

[See paragraph 13(2)]

District/Subdivision.....
Permit for Levy cement
(omitted)

Published in the *Calcutta Gazette, Extraordinary*, Part I, No. 478,
dated July 30, 1984.

HOUSING DEPARTMENT

No. 1717H2,—(30th July, 1984).—In exercise of the power conferred by sub-section (3) of section 1 of the *West Bengal Government Premises (Regulation of Occupancy) Act, 1984* (West Bengal Act XXI of 1984), the Governor is pleased to appoint the 31st day of July, 1984 as the date on which the said Act shall come into force.

Published in the *Calcutta Gazette, (Extraordinary)*, Part I, No. 706,
dated November 1, 1983.

DEPARTMENT OF FOOD AND SUPPLIES

No. 8060/F. S./FS/4D-26/77.—(1st November, 1983).—Whereas the Governor is of opinion that it is necessary and expedient so to do for maintaining supplies and for securing equitable distribution and availability at fair prices of pulses, edible oilseeds and edible oils in West Bengal.

Now, therefore, in exercise of the powers conferred by section 3 of *Essential Commodities Act, 1955* (10 of 1955) read with the Government of India, Ministry of Agriculture and Irrigation (Department of Food) order No. G.S.R. 800, dated the 9th June, 1978, the Governor is pleased to make the following amendments in the *West Bengal Pulses, Edible Oilseeds, and Edible Oils (Dealers Licensing) Order, 1978*, published with this department order No. 3029-F.S., dated the 9th June, 1978, in Part I of the "*Calcutta Gazette, Extraordinary*", dated the 9th June, 1978, as subsequently amended (hereinafter referred to as the said order), namely :—

Amendments

In the said order, for sub-paragraphs (1) and (2) of paragraph 7, substitute the following sub-paragraphs :—

"7. *Licence fees.*—(1) The following fees shall be charged in respect of each licence, namely :—

	Rs.
For grant or re-issue of a licence to a wholesaler	... 50-00
For renewal thereof	... 50-00
For grant or re-issue of a licence to a retailer	... 25-00
For renewal thereof	... 25-00

(2) If a licence is defaced, damaged, destroyed or lost, the licensee shall forthwith inform the licensing authority and the licensing authority may, on application made to him and on payment of a fee of Rs. 50-00 in case of a wholesaler and Rs. 25-00 in case of a retailer and after making such enquiry, as it may deem necessary, re-issue a licence and thereupon the licence so defaced, damaged, destroyed or lost shall cease to have any validity."

ORDER

No. 8962 F.S/FS/CG/14R-1/80.—(1st November, 1983).—Whereas the Governor is of opinion that it is necessary and expedient so to do for the maintenance of supplies and for securing equitable distribution and availability at fair prices of motor spirit and high speed diesel oil in West Bengal ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with clauses (d), (e), (h) and (j) of sub-section (2) of that section and sub-section (1) of section 7 of the said Act and order No. S.O. 681 (E), dated the 30th November, 1974, of the Government of India, Ministry of Industry and Civil Supplies (Department of Civil Supplies and Co-operation), the Governor is pleased hereby to make the following amendment in the **West Bengal Motor Spirit and High Speed Diesel Oil (Licensing, Control and Maintenance of Supplies) Order, 1980**, published with this department order No. 922-F.S/FS/OG/14R 1/80, dated the 29th February, 1980. In Part I of the "Calcutta Gazette, Extraordinary" dated the 29th February, 1980, as subsequently amended (hereinafter referred to as the said order) :—

Amendment

In the said order, for sub-paragraphs (1), (3), and (4) of paragraph 4, substitute the following sub-paragraphs :—

"(1) An application for a licence under sub-paragraph (7) of paragraph 3 for high speed diesel oil shall be made to the licensing authority in Form A and the licensing authority shall grant the licence in Form B on payment of a fee of rupees one hundred only in non-judicial stamp.

(3) Every licence granted under this order shall be valid up to the 31st December next following the date of its issue and may, at the discretion of this licensing authority, be renewed for a period not exceeding three years at a time on an application made in this behalf to such authority before the expiry of the period of validity of the licence and on payment of a fee, in non-judicial stamp, at the rate of rupees one hundred only per year, provided that the period of validity of a licence shall not be deemed to have expired, if an application for its renewal made in accordance with the provisions of this sub-paragraph is pending with the licensing authority.

(4) If a licence is defaced, mutilated, lost or destroyed the licensing authority may, after making such enquiry as he deems necessary, issue a fresh licence in place thereof on payment of a fee of rupees one hundred only in non-judicial stamp and thereupon the licence so defaced, mutilated, lost or destroyed shall be deemed to have been cancelled."

Published in the *Calcutta Gazette, (Extraordinary)*, Part I, No. 3070, dated May 4, 1984.

HOUSING DEPARTMENT

No. 1289-HIV/2R-2/84 —(4th May, 1984).—Whereas the Governor, in exercise of the power conferred by section 15 of the West Bengal Government Premises (Tenancy Regulation) Ordinance, 1976 (West Bengal Ordinance 1 of 1976), made rules, namely, the West Bengal Government Premises (Tenancy Regulation) Rules, 1976, published at pages 693-695 of

the "*Calcutta Gazette, Extraordinary*", Part I, dated the 13th February, 1976, under this department notification No. 490-H2/1A-3/75, dated the 4th February, 1976.

And whereas the West Bengal Government Premises (Tenancy Regulation) Ordinance, 1976, was subsequently repealed by the West Bengal Government Premises (Tenancy Regulation) Act, 1976 (West Bengal Act XIX of 1976);

And whereas under sub-section (2) of section 16 of the West Bengal Government Premises (Tenancy Regulation) Act, 1976, anything done or action taken under the West Bengal Government Premises (Tenancy Regulation) Act, 1976, as if the said Act had commenced on the 7th day of January, 1976 ;

And whereas in view of the provisions of clause (b) of section 31, read with section 25 and section 22, of the Bengal General Clauses Act, 1899 (Bengal Act I of 1899) and for the removal of doubt it is necessary to amend the West Bengal Government Premises (Tenancy Regulation) Rules, 1976 ;

Now, therefore, in exercise of the power conferred by section 15 of the West Bengal Government Premises (Tenancy Regulation) Act, 1976, the Governor is pleased hereby to make the following amendments in the West Bengal Government Premises (Tenancy Regulation) Rules, 1976 (hereinafter referred to as the said rules) :—

Amendments

In the said rules,—

(1) in rule 2,—

(a) in sub-rule (1), for the word "Ordinance", wherever it occurs, substitute the word "Act";

(b) in sub-rule (2), for the word "Ordinance", substitute the word "Act";

(2) in rule 3,—

(a) in sub-rule (1), for the words "the notice", substitute the figures words and brackets "30 days' notice (which shall take effect from the date of service thereof)";

(b) to sub-rule (2), add the following proviso :—

"Provided that where no application in Form 'B', has been received by the prescribed authority, the prescribed authority may on his own take necessary step for restoration of possession of any premises as aforesaid to the owner.";

(c) in sub-rule (3), *omit* the words and letters "after giving one month's notice in Form 'C' to the tenant concerned and";

(3) in rule 4, for the word "Ordinance", *Substitute* the word "Act";

(4) in rule 6,—

(a) in sub-rule (1), for the word "Ordinance", *Substitute* the word "Act";

(b) in sub-rule (3), for the word "Ordinance", *Substitute* the word "Act";

(5) in Form 'A',—

(a) for the word "Ordinance", whenever it occurs, substitute the word 'Act', and

(b) for the words "one month", substitute the word and figures "30 days"

(6) in Form 'B', for the word "Ordinance" in the two places where it occurs, substitute the word "Act";

(7) omit Form 'C';

(8) in Form 'D', for the word "Ordinance," in the two places where it occurs, substitute the word "Ordinance".

Published in the *Calcutta Gazette (Ext)*, Part I, No. 419, dated
June 29, 1984

HIGH COURT, APPELLATE SIDE, CALCUTTA

No. 17959G.—(14th December 1984)—The following amendments which have been made in the Rules of the High Court Calcutta relating to applications under Article 226 of the Constitution are published for general information :

AMENDMENT

1. The following new rule shall be added as "rule 25A" after the existing rule 25A :

"25AA. Notwithstanding contained in rule 25A, but save where the Court dispenses with the requirements of this rule, no petition under Article 226 (1) of the Constitution with any prayer for the interim order or any application in relation to such a petition with any such prayer shall be made, if the respondent sought to be bound or affected by the interim order is the Andaman & Nicobar Administration or any person or authority ordinarily residing or having its office in the Island, unless such a respondent or any one authorised by such respondent to receive such notice is served with a clear fortnight's prior notice along with a copy of such application or petition as the case may be, together with all documents in support thereof."

2. In rule 25D, the word and the figure "and 25AA" shall be inserted after the word and figure "requirement of Rule 25A" and before the words "and an interim order is obtained".

K. C. MUKHERJEE,
Registrar,
High Court, Appellate Side,
Calcutta.

Published in the *Calcutta Gazette (Ext.)*, dated December 8, 1981.

LAND AND LAND REFORMS DEPARTMENT

No.—3191-L. Ref./20R.12/81.—(21st November, 1981)—In exercise of the power conferred by section 60 of the West Bengal Land Reforms Act, 1955 (West Ben. X of 1955), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section the following amendment in the West Bengal Land Reforms (Bargadars) Rules, 1956, published with this department notification No. 9796-L. Ref., dated the 1st June, 1956 in the *Calcutta Gazette, Extraordinary*, dated the 2nd June, 1956, as subsequently amended (hereinafter referred to as the said rules), namely :

AMENDMENT

In rule 9 of the said rules, for sub-rule (4), substitute the following sub-rule :

“(4) Any officer or authority proceeding to dispose of such application shall after making such inquiry including an on-the spot inquiry and inspection as he may deem fit, and after giving the parties concerned and opportunity of being heard, dispose of the application on a date to be fixed by him for consideration thereof.

Explanation.—In disposing of the application the officer or authority concerned shall be entitled to act on the findings arrived at by him as a result of such enquiry including on-the-spot enquiry or inspection.”

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 803,
dated August 30, 1984.

DEPARTMENT OF HEALTH AND FAMILY WELFARE

No. Health/MA/3819/5P-17/84 —(29th August, 1984)—In exercise of the power conferred by sub-section (1) of section 42 of the Pharmacy Act, 1948 (8 of 1948), the Governor is pleased hereby to appoint the 1st day of September 1986, as the date on which sub-section (1) of the said section shall take effect in the State of West Bengal.

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 519,
dated December 16, 1981.

LAND AND LAND REFORMS DEPARTMENT

No. 3252 L. Ref. 22R-3/78 (Pt. II—(7th December, 1981)—In exercise of the power conferred by section 60 of the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section, the following amendment in the West Bengal Land Reforms Rules, 1965, as subsequently amended (hereinafter referred to as the said Rules), namely :

AMENDMENT

In the said rules, in Schedule A,—
in clause 1, after sub-clause (V) of the second proviso add the following sub-clause :

“(vi) that names of persons with whom lands have been settled under section 49 and who have been given pattas shall be recorded as rai-yats by the Revenue Officer subordinate to him by opening a Khatian for each of them.”

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 101,
dated March 30, 1985.

HOME DEPARTMENT

No. 3315 WT.—(29th March, 1985)—In exercise of the power conferred by sections 21, 21J, 41, 68 and 70 of the Motor Vehicle Act, 1938 (4 of 1939), the Governor is pleased to make, after previous publication as required by sub-section (1) of section 133 of the said Act, the following amendment in the Bengal Motor Vehicles Rules, 1940, at pages 2655-2829 of Part I of the “Calcutta Gazette” of the 10th October 1940, as subsequently amended (hereinafter referred to as the said rules), namely :—

AMENDMENTS

In the said rules,—

(1) in sub-rule (c) of rule 6, for the words “seven rupees and fifty paise”, substitute the words “fifteen rupees”;

(2) in sub-rule (g) of rule 10, for the words "fifteen rupees", substitute the words "twenty rupees";

(3) in sub-rule (d) of rule 11, for the words "fifteen rupees" substitute the words "twenty rupees";

(4) in sub-rule (c) of rule 12, for the words "fifteen rupees" substitute in words "twenty rupees";

(5) in rule 15,—

(i) in sub-rule (b), for the words "seven rupees and fifty paise", substitute the words "fifteen rupees";

(ii) in sub-rule (c), for the words "seven rupees and fifty paise", substitute the words "fifteen rupees";

(iii) in sub-rule (e), for the words "three rupees", substitute the words "ten rupees";

(6) in rule 31,—

(i) in sub-rule (a), for the words "court fee of fifteen rupees", substitute the words "court fee of thirty rupees";

(ii) in sub-rule (d) for the words "one rupee", substitute the words "five rupees";

(7) in sub-rule (b) of rule 33A,—

(a) in clause (i), for the letters and figures "Rs. 100", substitute the letters and figures "Rs. 300", and

(b) in clause (ii), for the words "as many rupees as is equal to the difference", substitute the words "three rupees for each difference";

(8) for sub-rule (h) of rule 36, substitute the following sub-rule :—

"(h) The fee for the grant or renewal of a certificate of fitness shall be fifty rupees per annum and shall in both case, include the fee for inspection :

Provided that the fee for the renewal of certificate of fitness shall be twenty-five rupees where such renewal remains valid for a period of six months only."

(9) for sub-rule (a) of rule 38, substitute the following sub-rule :—

"(a) The fee for registration of a motor vehicle shall be,—

(i) in respect of invalid carriage—Nil.

(ii) in respect of a motor cycle—Thirty-five rupees.

(iii) in respect of a light motor vehicle—Sixty-five rupees.

(iv) in respect of a medium motor vehicle—Ninety rupees.

(v) in respect of a heavy motor vehicle—One hundred and fifty rupees.

(vi) in respect of temporary registration of any motor vehicle—Twenty-five rupees.

(vii) in respect of duplicate certificate of registration—Twenty-five rupees.

(viii) in respect of extension temporary registration of a vehicle under the proviso to sub-section (2) of section 25 of the Act—Twenty-five rupees."

(10) in sub-rule (b) of rule 39, for the words "seven rupees and fifty paise", substitute the words "fifteen rupees";

(11) in the proviso to rule 39A, for the letters, figures and word "Rs. 25 only";

(12) in sub-rule (e) of rule 41,—

(i) for the words "ten rupees", substitute the words "twenty rupees", and

(ii) for the words "five rupees", substitute the words "ten rupees";

(13) in rule 46, —

(a) in sub-rule (c), —

(i) for the words "four hundred and fifty rupees", substitute the words "one thousand rupees", and

(ii) for the words "two hundred and twenty-five rupees", substitute the words "five hundred rupees";

(b) in sub-rule (1), for the words "fifteen rupees", substitute the words "forty rupees";

(14) in rule 51, —

(i) for the words "fifty paise", substitute the words "two rupees", and

(ii) in the third proviso, for the words "twenty-five paise", substitute the words "one rupee";

(15) for sub-rule (a) of rule 59A, substitute the following sub-rule :—

"(a) (i) The fee for application for grant of stage carriage permit, public carrier's permit, contract carriage permit, private service vehicle permit or private carrier's permit, or for the grant of a temporary permit for a stage carriage, shall be fifty rupees ;

(ii) The fee for application for renewal of a stage carriage permit, public carrier's permit, contract carriage permit, private service vehicle permit or a private carrier's permit shall be twenty-five rupees";

(16) in sub-rule (b) of rule 59B for the words "rupees one hundred", substitute the words "rupees two hundred" ;

(17) for rule 65, substitute the following rule :—

"65. *Permit fees.*—The fees in respect of grant or renewal of permit other than temporary and special permit shall be—

(i) in respect of stage carriages,—

(a) rupees eighty per region per vehicle per annum for the regions of Calcutta and Howrah,

(b) rupees fifty-five per region per vehicle per annum for other regions ;

(ii) in respect of contract carriages,—

(a) rupees fifty per region per vehicle per annum for the regions of Calcutta and Howrah, and

(b) rupees thirty per region per vehicle per annum for other regions ;

(iii) in respect of private carriers—rupees one hundred and twenty-five per vehicle per annum for any one or more regions within the State ;

(iv) in respect of private service vehicle—rupees seventy per vehicle per annum for any one or more regions within the State ;

(v) in respect of public carriers,—

(a) rupees one hundred and fifty per vehicle per annum for any one region, and

(b) rupees two hundred per vehicle per annum for more than one region.

Explanation.—For the purpose of sub clauses (a) and (b) the region of Calcutta and Howrah together shall be deemed to constitute one region." ;

(18) for rule 65A, substitute the following rule :—

“65A. *Temporary permit fees*—The fees for the grant of temporary permit shall be—

- (a) within the State,—
 - (i) rupees ten per vehicle per region up to two days.
 - (ii) for a period exceeding two days, rupees twenty-five per vehicle per region per week or part thereof, and
- (b) for any other State, rupees fifty per vehicle per week or part hereof”

(19) for rule 65B, substitute the following rule :—

“65B. *Countersignature permit fees*.—The fees for the counter signature of permits shall be—

- (i) in respect of stage carriages,—
 - (a) rupees seventy-five per annum or part thereof per region per vehicle in the State :

Provided that when a permit valid for more than one region has been issued by the Regional Transport Authority of any region under the approval of the State Transport Authority, West Bengal and fees for permit, in accordance with rule 65, have been paid in respect of all the regions covered by the permit, fees for counter signature shall not be charged for authorising the vehicle to ply in the regions covered by the permit, other than the region of the Regional Transport Authority which issued the permit.

- (b) rupees one hundred and seventy-five per annum or part thereof for one region in respect of a vehicle coming from any other State, and

- (c) rupees four hundred per annum or part thereof for more than one region in respect of a vehicle coming from any other State ;

- (ii) in respect of contract carriages,—

- (a) rupees fifty per annum or part thereof per region per vehicle in the State :

Provided that when a permit valid for more than one region has been issued by the Regional Transport Authority or any region under approval of the State Transport Authority, West Bengal, and fees for permit in accordance with rule 65, have been paid in respect of all the regions covered by the permit, fees for countersignature shall not be charged for authorising the vehicle to ply in the regions covered by the permit, other than the region of the Regional Transport Authority which issued the permit.

- (b) rupees one hundred and twenty-five per annum or part thereof for one region in respect of a vehicle coming from any other State, and

- (c) rupees two hundred and fifty per annum or part thereof for more than one region in respect of a vehicle coming from any other State ;

- (iii) in respect of public carriers,—

- (a) rupees fifty per annum or part thereof per region per vehicle in the State,

- (b) rupees one hundred and twenty-five per annum or part thereof per vehicle for the whole of the State,

- (c) rupees one hundred and eighty per annum or part thereof for region in respect of a vehicle coming from any other State, and

- (d) rupees four hundred per annum or part thereof for more than one region in respect of a vehicle coming from any other State ;

(iv) in respect of private service vehicles—

(a) rupees twenty-five per annum or part thereof per region per vehicle in the State,

(b) rupees seventy per annum or part thereof for the whole of the State,

(c) rupees sixty-five per annum or part thereof for one region in respect of a vehicle coming from any other State, and

(d) rupees one hundred and thirty per annum or part thereof for more than one region in respect of a vehicle coming from any other State, and

(v) in respect of private carriers,—

(a) rupees fifty per annum or part thereof per region per vehicle in the State,

(b) rupees one hundred per annum or part thereof per vehicle for the whole of the State,

(c) rupees one hundred and thirty per annum or part thereof for one region in respect of vehicle coming from any other State, and

(d) rupees one hundred and sixty per annum or part thereof for more than one region in respect of a vehicle coming from any other State”;

(20) in rule 65DD, for the words “rupees ten”, substitute the words “rupees forty”;

(21) in rule 65H, for the words “two rupees”, substitute the words “twenty rupees”;

(22) in clause (i) of sub-rule (e) of rule 79 for the words “twenty-five rupees”, substitute the words “forty rupees”;

(23) for sub-rule (e) of rule 80, substitute the following sub-rule:—

“(e) The fee for issue of a duplicate permit or for the issue of a duplicate Part A or Part B permit shall be twenty-five rupees. The fees for the issue of a duplicate temporary permit shall be ten rupees”;

(24) for rule 86A, substitute the following rule:—

“86A. *Fees for appeal.*—(1) The fees in respect of a memorandum of appeal under section 64 of the Act shall be—

(a) when preferred to the State Transport Appellate Tribunal under rule 84, rupees fifty, and

(b) when preferred to the State Transport Appellate Tribunal under rule 83, rupees one hundred.

(2) The fee in respect an application for revision before the State Transport Appellate Tribunal under section 64A of the Act shall be rupees forty.

(3) Such fee shall be payable by Treasury Challan which shall accompany the memorandum of appeal or the application as the case may be”;

(25) for sub-rule (c) of rule 96, substitute the following sub-rule:—

“(c) The fee for the issue of a badge as aforesaid shall be five rupees. If the badge is lost or destroyed a duplicate badge shall be issued by the authority by which it was issued, on payment of five rupees. And upon the return to the issuing authority of a badge or of a duplicate badge, the driver shall be entitled to a refund of five rupees:

Provided that where the actual cost incurred by the State Government for a badge exceeds five rupees, the State Government may direct

that such actual cost shall be charged as the fee under this sub-rule.” ;
(26) for sub-rule (c) of rule 97, substitute the following sub-rule, namely :—

“(c) The fee for the issue of a conductor’s badge aforesaid shall be five rupees. If the badge is lost or destroyed, a duplicate badge shall be issued by the authority which issued it, on payment of five rupees. And upon return to the issuing authority of a badge or a duplicate badge, the conductor shall be entitled to a refund of five rupees :

Provided that where the actual cost incurred by the State Government for a badge exceed five rupees, the State Government may direct that such actual cost shall be charged as the fee under this sub rule.” ;

(27) in rule 109A,—

(a) in the second proviso to sub-rule (2) of rule 109A, for the words “rupees ten”, substitute the words “rupees twenty-five” ;

(b) in sub-rule (6), for the words “one hundred rupees”, substitute the words “two hundred rupees”, and (c) in sub-rule (9), for the words “rupees ten”, substitute the words “rupees twenty-five” ;

(28) in sub-rule (1) of rule 109CC, for the words “rupees one thousand”, substitute the words “rupees ten thousand” ;

(29) in sub-rule (2) of rule 109D, for the words “twenty rupees”, substitute the words “fifty rupees” ;

(30) in sub-rule (c) of rule 109E, for the letters and figures “Rs. 5”. substituted the words “rupees twenty-five” ;

(31) in sub-rule (4) of rule 181B,—

(a) for the words “twenty-five rupees”, substitute the words “forty rupees” and —

(b) for the words “thirty-two rupees”, substitute the words “fifty rupees” ;

(32) in sub-rule (4) of rule 181E,—

(a) for the words “five rupee”, substitute the words “twenty-five rupees” and

(b) for the words “one rupee”, substitute the words “five rupees”.

2. These amendment shall have effect from the 1st April, 1982.

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DEPARTMENT OF LOCAL GOVERNMENT AND URBAN DEVELOPMENT

No. 824/C-4/M3R-1/83.—(24th August, 1984)—In exercise of the powers conferred by section 111 of the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980), and in supersession of all previous notification on the subject, the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of section 600 of the said Act, the following rules :—

RULES

The Calcutta Municipal Corporation (Procedure and Conduct of (Business) Rules, 1984.

CHAPTER I

Preliminary

1. *Short title.*—(1) These rules may be called the Calcutta Municipal Corporation (Procedure and Conduct of Business) Rules, 1984.

(2) These shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*—(1) In these rules, unless the context otherwise requires—

(a) “the Act” means the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980);

(b) “member” means a member of the Corporation;

(c) “motion” means a proposal made by a member for the consideration at a meeting of the Corporation relating to any matter which may be discussed by the Corporation at such meeting, and includes an amendment;

(d) “section” means a section of the Act.

(2) Words and expressions used in these rules but not otherwise defined shall have the same meaning as in the Act.

CHAPTER II

Meeting of the Corporation

3. *Meeting duly constituted*—A meeting of the Corporation is duly constituted when it is presided over by the Chairman or any other member competent to preside over a meeting of the Corporation under the Act.

4. *First meeting of the Corporation.*—(1) The first meeting of the Corporation under section 95 after each general election shall be held as early as possible, but not later than fifteen days, after the publication of the results of the election of Aldermen under section 74.

(2) The meeting shall be convened by the Municipal Secretary on such date and such at place and time as the State Government may fix.

(3) Notice of such meeting shall be given by the Municipal Secretary to all members at least ten days before the date of the meeting in the manner laid down in section 96.

5. *Day and hour of meeting.*—(1) Ordinarily the Chairman shall convene a meeting of the Corporation in the Municipal Council Chamber once in every month and shall in consultation with the Mayor determine for how many days the meeting shall continue.

(2) Subject to the direction of the Chairman, the meeting shall ordinarily commence at 1 p.m. and shall ordinarily conclude at 7 p.m.

6. *Adjournment of the meeting of the Corporation.*—The Chairman shall determine when a meeting of the Corporation shall be adjourned to a particular day or to an hour or part of the same day.

7. *List of business.*—(1) The list of business to be transacted at every meeting shall be prepared by the Municipal Secretary under the direction of the Chairman.

(2) Save as otherwise provided in these rules, no business not included in the list of business shall be transacted at any meeting without the permission of the Chairman.

8. *Notice*—(1) Notice of a meeting of the Corporation shall be issued by the Municipal Secretary under the direction of the Chairman to all members in the manner laid down in section 96 at least ten days before the date fixed for the meeting.

(2) The Municipal Secretary shall, under the direction of the Chairman send the list of business to be transacted at every meeting of the Corporation, other than an adjourned meeting, to the members in the manner and within the time specified in section 96.

9. *Requisitioned meeting.*—(1) A meeting upon a requisition referred to in sub-section (2) of section 94 shall be called not later than 15 days from

the date of receipt of the requisition.

(2) The requisition together with the names of the signatories thereto and the nature of business mentioned therein shall be set out in the list of business.

(3) At such meeting no proposal shall be made or discussed unless it directly relates to the business mentioned in the requisition.

(4) In the event of the discussion not being finalised on the day appointed for it, Chairman may adjourn the meeting to a convenient date and time.

10. *Quorum*.—The quorum necessary for the transaction of business at a meeting shall be one fifth of the total members of the Corporation as provided in section 97.

CHAPTER III

Election of Mayor and Chairman

11. *Mayor and Chairman to be elected at the first meeting*.—At the first meeting of the Corporation the elected members shall under section 6 elect from among themselves—

(a) one member to be the Mayor, and

(b) one member to be the Chairman,

12. *Nomination of candidates for the election of Mayor and Chairman*.—

(1) At any time before 1 p.m. on the seventh day preceding the date fixed under sub-rule (2) of rule 4 any elected member may—

(a) nominate another elected member for the election of the Mayor,

(b) nominate another elected member for election of the Chairman, by delivering to the Municipal Secretary a nomination paper signed by himself as proposer and by a third elected member as seconder, and stating—

(a) the name of the elected member nominated, and

(b) that the proposer has ascertained that such member is willing to serve as the Mayor or the Chairman, as the case may be.

(2) If the day preceding the date so fixed is a holiday or one of a series of holidays, the nomination paper shall be delivered before 1 p.m. on the day previous to the holiday or holidays, as the case may be.

(3) The nomination paper shall be in the form set out for the purpose in Annexure A.

13. *Procedure for election of Mayor and Chairman*.—(1) The person presiding shall read out the names of the members who have been duly nominated for the post of the Mayor together with those of their proposers and seconders, and, if only one member has been so nominated, shall declare that member to be elected. If more than one member has been so nominated, the Corporation shall proceed to elect a Mayor by secret ballot.

(2) After the election of the Mayor, the person presiding shall read out the names of the members who have been duly nominated for the post of the Chairman together with those of their proposers and seconders, and if only one member has been so nominated shall declare the member to be elected. If more than one member has been so nominated, the Corporation shall proceed to elect the Chairman by secret ballot.

(3) For the purposes of sub-rules (1) and (2) an elected member shall not be deemed to have been duly nominated or be entitled to vote if he, his

proposer and seconder, have not, before the reading out of the name by the person presiding, made the oath or affirmation as required under section 79.

(4) If, during the election of the Mayor or the Chairman, as the case may be, it appears that there is an equality of votes between the candidates at such election and the addition of a vote would entitle one of such candidates to be elected as Mayor or the Chairman, as the case may be, then the person presiding over the meeting shall decide between such candidates by lot to be drawn in their presence and in such manner as he may determine and the candidate on whom the lot falls shall be deemed to have received an additional vote.

(5) The oath of secrecy referred to in section 6 shall be administered by the person presiding to the newly elected Mayor and the Chairman in the following form :

"I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the Mayor/Chairman except as may be required for the due discharge of my duties as such Mayor/Chairman."

14. Election of Mayor or Chairman in case of vacancy.—(a) In the case of a vacancy in the office of the Mayor or the Chairman, as the case may be, by reason of death, resignation, removal or otherwise, a new Mayor or Chairman as the case may be, shall be elected at a meeting of the Corporation within one month of the occurrence of such vacancy.

(b) The meeting shall be convened by the Municipal Secretary on such date and at such place and time as the State Government may fix.

(c) Notice of such meeting shall be given by the Municipal Secretary to all members at least 10 days before the date fixed for such meeting.

(d) At any time before 1 p. m. on the seventh day preceding the date so fixed for the meeting, nomination papers may be filed in the manner laid down in rule 12.

(e) The procedure for election of the Mayor or the Chairman, as the case may be, shall be as laid down in rule 13.

CHAPTER IV

Oath of secrecy for Deputy Mayor and other member of the Mayor-in-Council

15. Oath of secrecy.—The oath of secrecy referred to in sub-section (2) of section 8 for the Deputy Mayor and the other members of the Mayor-in-Council shall be administered by the Mayor in the following form :

"I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or person any matter which shall be brought under my consideration or shall become known to me as the Deputy Mayor/a member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor/member."

CHAPTER V

Questions

16. Time for question.—Unless the Chairman otherwise directs, the first hour of every day of the meeting shall be available for the asking of and answering to questions.

17. *Chairman to decide admissibility of question.*—The Chairman shall decide on the admissibility of a question with reference to the provisions of the Act and these rules and shall disallow any question when, in his opinion, it is an abuse of the right of questioning or is in contravention of these provisions.

18. *Chairman to decide questions for written answer.*—If in the opinion of the Chairman any question put down for answer is of such a nature that a written reply would be more appropriate, the Chairman may direct that such question be placed on the list of question for written answer.

19. *List of question.*—Questions which have not been disallowed shall be entered in the list of question for the day in accordance with the order of the Chairman.

20. *Members entitled to answer to two questions on a day.*—(1) Not more than two question by the same member shall be placed on the list of questions for oral answer on any one day. Questions in excess of two shall be placed on the list of questions for written answer.

(2) The order in which question for answer are to be placed shall be indicated by the member giving notice and if no such order is indicated the question shall be placed on the list of question in the order in which notices are received in point of time.

21. *Mode of asking questions.*—(1) When the time for asking question arrives, the Chairman shall call successively each member in whose name a question appears in the list of questions.

(2) The member so called shall rise in his place, and unless he states that it is not his intention to ask the question standing in his name, ask the questions by reference to his number on the list of question.

(3) If on a question being called it is not asked, or the member in whose name it stands is absent, the Chairman may at the request of any member direct that the answer be given.

22. *Supplementary question.*—(1) No discussion shall be permitted during the time for question under rule 16 in respect of any question or of any answer given to a question.

(2) A member when called by the Chairman may ask a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has to be given :

Provided that the Chairman shall disallow any supplementary question, if in his opinion, it infringes the rules regarding questions.

23. *Written answer to questions not replied.*—If any question placed on the list of questions for answer is not called for answer within the time available answering questions, a written reply to the question shall forthwith be laid on the table.

24. *Publicity of answers to questions.*—Answers to questions which a member of the Mayor-in-Council proposes to give in the meeting shall not be released for publication until the answers have actually been given on the floor of the House or laid on the Table.

CHAPTER VI

Motion for Adjournment on a matter of public importance

25. *Chairman's consent necessary to make motion.*—Subject to the provision of these rules, a motion for an adjournment of the business of the Corporation for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Chairman.

26. *Method of giving notice.*—A member desiring to ask for leave to move a motion for the adjournment of the business of the Corporation for the purpose of discussing a definite matter of urgent public importance must give to the Municipal Secretary at least two hours' notice before the commencement of the meeting of the day on which he desires to ask for such leave, along with a copy of the motion proposed to be moved, and a short statement of the matter proposed to be discussed. The Municipal Secretary shall inform the member as early as possible whether the Chairman has given his consent or not.

27. *Restrictions on right to make adjournment motion.*—The right to move the adjournment of the Corporation for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions namely :—

(a) the motion shall not relate to a matter which is not primarily the concern of the Mayor-in-Council ;

(b) not more than one such motion shall be made in day ;

(c) not more than one matter shall be discussed on the same motion ;

(d) the motion shall be restricted to a specific matter of recent occurrence ;

(e) the motion shall not revive discussion on a matter which has been discussed in the meeting of the same month ;

(f) the motion shall not anticipate a matter, which has been previously appointed for consideration, and in determining whether a discussion is out of order on the ground of anticipation, regard shall be had by the Chairman to the probability of the matter anticipated being brought before the Corporation within a reasonable time ;

(g) the motion shall not raise any question which under the Act or these rules can only be raised on a distinct motion by a notice given in writing to the Municipal Secretary ; and

(h) the motion shall not deal with any matter which is under adjudication by a court of law.

28. *Motion of discussion on matters before tribunals, commissions, etc.*—No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate any matter, shall ordinarily be permitted to be moved.

29. *Mode of asking for leave to move adjournment motion.*—(1) The Chairman, if he gives consent under rule 25 and holds that the matter proposed to be discussed is in order, shall, after the questions and before the list of business are entered upon, call the member concerned who shall rise in his place and ask for leave to move the adjournment of the Corporation:

Provided that where the Chairman has refused his consent under rule 25 he may, if he thinks, it necessary, read the notice of motion and state the reasons for refusing consent.

(2) If objection to leave being granted is taken, the Chairman shall request those members who are in favour of leave being granted to rise in their places, and if not less than twenty members rise accordingly, the Chairman shall intimate that leave is granted. If less than twenty members rise, the Chairman shall inform the member that he has not the leave of the Corporation.

30. *Time for taking up motion*—If no objection is taken to the motion for adjournment or leave is granted by the Corporation to move the motion, the Chairman shall intimate the hour at which the motion will be taken.

31. *Limitation of time for discussion*.—(1) The debate on a motion to discuss a matter of urgent public importance, if not earlier concluded, shall automatically terminate at the end of two hours' debate, and thereafter no question can be put.

(2) No speech during the debate shall exceed ten minutes in duration.

CHAPTER VII

Calling attention to matters of urgent public importance

32. *Calling attention to matters of urgent public importance*.—(1) A member may, with the previous permission of the Chairman, call the attention of a member of the Mayor-in-Council to any matter of urgent public importance and the member of the Mayor-in-Council may make a brief statement or ask for time to make a statement at a later hour or date.

(2) A member wishing to call such attention shall give a notice in writing to the Municipal Secretary at least one hour before the commencement of the meeting on any day.

(3) There shall be no debate on such statement at the time it is made.

(4) Not more than one such matter shall be raised at the same * meeting.

(5) In the event of more than one matter being presented for the same day, priority shall be given to the matter which, in the opinion of the Chairman, is more urgent and important.

(6) The proposed matter shall be raised after the questions and before the list of business is entered upon and at no other time during the meeting of the Corporation.

CHAPTER VIII

Motion

33. *Method of giving notice*.—(1) Every notice of a motion shall be signed by the member giving the notice and shall be accompanied by the motion itself and shall reach the Municipal Secretary at least forty-eight hours before the time fixed for the meeting.

(2) No previous notice is necessary for a motion—

(a) to refer a matter under debate back to the Mayor-in-Council ;

(b) to pass on to the next item of business ;

(c) to adjourn the debate (on any item) or to adjourn the meeting altogether to a definite time and place ;

(d) to close the debate on a motion by moving that "the question be now put".

34. *Conditions for admissibility of motion*.—In order that a motion may be admissible, it shall satisfy the following conditions, namely :—

(a) it must have a bearing on the municipal affairs of Calcutta ;

(b) it shall raise substantially one definite issue ;

(c) it shall not contain arguments, inferences, ironical expressions, imputations and defamatory statements ;

(d) it shall not, without the permission of the Chairman, arise a question substantially the same as may have been disposed of by the Cor-

poration within the proceeding two months ;

(e) it shall not relate to any matter which is under adjudication by a court of law.

35. *Raising discussion on matters before tribunals, commissions, etc.*—No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commissions or court of inquiry appointed to enquire into, or investigate, any matter, shall be permitted to be moved.

36. *Chairman to decide admissibility of motion.*—The Chairman shall decide whether a motion or part thereof is or is not admissible under this rule and may disallow any motion or a part thereof when, in his opinion, it is an abuse of the right of moving a motion, or is calculated to obstruct or prejudicially affect the procedure of the Corporation, or is in contravention of this rule.

37. *Amendments of motion.*—A member giving notice of a motion may, with the permission of the Corporation, make alterations in his motion, or may, with the permission of the Corporation, withdraw it at any stage of the debate.

38. *Moving of motion.*—If a motion is not moved by the member giving notice of such motion or with the consent of the Chairman by some other member when it comes up for discussion, it shall be considered as dropped and shall not be moved again without fresh notice.

39. *Consideration of motion.*—(1) No motion to alter any resolution or any portion of a resolution, which has been passed by the Corporation within the preceding two months, shall be considered until such resolution or the portion sought to be altered has first been rescinded.

(2) No motion to rescind such resolution or a portion of it shall be considered unless previous notice has been given under this rule by a member supported by nine other members :

Provided that if the Mayor-in-Council recommends such rescission or alteration of the previous resolution within the period of two months, the same shall be considered by the Corporation :

Provided further that no motion to alter any resolution or any portion of a resolution which relates to election of a person or persons can be moved.

(3) When once such motion has been disposed of by the Corporation, it shall not consider a similar motion within a further period of six months, except with the consent of three-fourths of the number of members present and voting.

(4) No action arising out of a resolution of the Corporation shall be kept in abeyance merely by reason of a notice of motion having been received for rescinding or altering such resolution and is pending.

CHAPTER IX

Discussion at a meeting and rules to be observed

40. *Mode of discussion.*—(1) A member desiring to make any observation on any matter before the Corporation shall rise, when he speaks and shall address the Chairman :

Provided that a member disabled by sickness or infirmity may be permitted to speak sitting.

(2) The matter of every speech must be strictly relevant to the subject under discussion.

(3) A member who intends to move a motion shall read the same before speaking on it.

(4) In case a member desires to ask a question to a member of the Mayor-in-Council on any matter under consideration, he shall ask the question through the Chairman.*

(5) Any debate and discussion on any item on the list of business shall not ordinarily exceed thirty minutes. The time-limit for the mover of a motion or amendment shall not, without the permission of the Chairman, exceed five minutes. The time-limit for the reply by the mover of a motion shall not, without the permission of the Chairman, exceed ten minutes.

(6) After the member, who moves a motion, has spoken, other members may speak on the motion in such order as the Chairman may call upon. If any member, who is so called upon, does not speak, he shall not be entitled, except with the permission of the Chairman, to speak on the motion at any later stage of the debate.

(7) Except in the exercise of a right of reply, or as otherwise provided in these rules, no member shall speak more than once on any motion except with the permission of the Chairman.

(8) A member, who has moved a motion, may speak again by way of reply, and if the motion is moved by a member other than a member of the Mayor-in-Council, any member of the Mayor-in-Council may, with the permission of the Chairman, speak whether he has previously spoken in the debate or not, after the mover has replied.

(9) Subject to the provisions of sub-rule (8), the reply of the mover of the original motion shall in all cases conclude the debate.

41. *Procedure when Chairman rises.*—Whenever the Chairman rises, he shall be heard in silence, and any member, who is then speaking or offering to speak, shall immediately sit down.

42. *Closure*—(1) At any time after a motion has been made, any member may move : "That the question be now put", and unless it appears to the Chairman that the motion is an abuse of these rules or an infringement of the right of reasonable debate, the Chairman shall then put the motion : "That the question be now put."

(2) When the motion "That the question be now put" has been carried, the question or questions consequent thereon shall be put forthwith without further debate :

Provided that the Chairman may allow a member any right of reply which he may have under these rules.

43. *Method of deciding matters*—The method of deciding matters at a meeting shall be in accordance with the provisions of section 97.

44. *Proposal and putting of question.*—When a motion has been made, the Chairman shall propose the question for consideration and put it for Consideration of the Corporation. If a motion embodies two or more separate propositions those propositions may be proposed by the Chairman as separate questions.

45. *Procedure for obtaining decision of the Corporation.*—A matter requiring the decision of the Corporation shall be decided by mean of a question put by the Chairman on a motion by a member.

46. *Rules to be observed, while speaking.*—A member, while speaking, shall not—

- (a) refer to any matter of fact on which a judicial decision is pending;
- (b) make a personal charge against a member or an officer or employee of the Corporation;
- (c) use offensive expressions about the conduct or proceedings of Parliament or any State Legislature;
- (d) reflect on any determination of the Corporation except on a motion for rescinding it;
- (e) use the President's or the Governor's name for the purpose of influencing the debate;
- (f) utter treasonable, seditious or defamatory words;
- (g) use his right of speech for the purpose of obstructing the business of the Corporation.

47. *Rules to be observed by members while present in the meeting of the Corporation.*—Whilst the Corporation is sitting a member—

- (a) shall not read any book, newspaper or letter except in connection with the business of the Corporation;
- (b) shall not interrupt any member while speaking by disorderly expression or noises or in any other disorderly manner;
- (c) shall bow to the Chair while entering or leaving the Municipal Council Chamber and also when taking or leaving his seat;
- (d) shall not pass between the Chair and any member who is speaking;
- (e) shall not leave the Municipal Council Chamber when the Chairman is addressing the meeting;
- (f) shall always address the Chair;
- (g) shall maintain silence when not speaking in the meeting of the Corporation;
- (h) shall not obstruct proceeding, his or interrupt and shall avoid making running commentaries when speeches are being made in the meeting of the Corporation;
- (i) shall not while speaking make an reference to the strangers in any of the Galleries.

CHAPTER X Resolution

48. *Notice of a resolution by a member of the Mayor-in-Council.*—A member of the Mayor-in-council who wishes to move a resolution shall give notice to that effect forty-eight hours before the time fixed for the meeting.

49. *Notice of a resolution by a member other than a member of the Mayor-in-council.*—A member other than a member of the Mayor-in-council who wishes to move a resolution shall give notice to that effect forty-eight hours before the date of the ballot to be notified by the Municipal Secretary under the direction of the Chairman. The names of all the members from whom such notices are received shall be balloted on such date and those members who secure the first three places in the ballot shall be eligible to give notice of one resolution each. The resolution shall be entered in the list of business. The remaining resolutions shall stand disallowed.

50. *Form of resolution.*—A resolution may be in the form of a declaration of opinion or a recommendation ; or may be in the form so as to accord either approval or disapproval by the Corporation of any act or policy of the Mayor-in-Council, or convey a message ; or command, urge or request an action ; or call attention to a matter or situation for consideration of the Mayor-in-Council ; or in such other form as Chairman may consider appropriate.

51. *Subject matter of resolution.*—Subject to the provisions of these rules a member of the Corporation or a member of the Mayor-in-Council may move a resolution relating to a matter of general public interest in so far as it relates to the municipal affairs of Calcutta.

52. *Conditions for admissibility of resolution.*—In order that a resolution may be admissible, it shall satisfy the following conditions, namely :—

- (a) it must have a bearing on the municipal affairs of Calcutta ;
- (b) it shall raise substantially one definite issue ;
- (c) it shall not contain arguments, inferences, ironical expressions, imputations or defamatory statements ;
- (d) it shall not refer to the conduct or character of persons except in their official or public capacity ;
- (e) it shall not, without the permission of the Chairman, rise a question substantially the same as have been disposed of by the Corporation within the preceding two months ;
- (f) it shall not relate to any matter which is under adjudication by a court of law.

53. *Raising discussion on matters before tribunals, commissions, etc.*—No resolution which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of inquiry appointed to enquire into, or investigate, any matter, shall be permitted to be moved.

54. *Chairman to decide admissibility of resolution.*—The Chairman shall decide whether a resolution or a part thereof is or is not admissible under these rules and may disallow any resolution or a part thereof when in his opinion it is an abuse of the right of moving a resolution or is calculated to obstruct or prejudicially affect the procedure of the Corporation or is in contravention of these rules.

55. *Moving of resolution.*—(1) A member in whose name a resolution stands on the list of business shall except when he wishes to withdraw it, when called upon move the resolution and shall commence his speech by a formal motion in the terms appearing in the list of business.

(2) A member may, with the permission of the Chairman, authorise any other member in whose name the same resolution stands lower in the list of business, to move it on his behalf, and the member so authorised may move it accordingly.

(3) If a member other than a member of the Mayor-in-Council, when called upon is absent, any other member authorised by him in writing in his behalf may, with the permission of the Chairman, move the resolution standing in his name.

56. Amendments to resolution.—(1) After a resolution has been moved, any member may, subject to the rules relating to resolutions, move an amendment to the resolution.

(2) The Municipal Secretary shall, if time permits, make available to the members from time to time lists of amendments of which notices have been received.

(3) If notice of such amendment has not been given one day previous to the day on which the resolution is moved, any member may object to the moving of the amendment and such objection shall prevail unless the Chairman allows the amendment to be moved.

57. Time-limit for speeches.—No speech on a resolution shall, except with the permission of the Chairman, exceed ten minutes in duration :

Provided that the mover of a resolution when moving the same and the member of the Mayor-in-Council concerned when speaking for the first time, may speak for fifteen minutes or for such longer time as the Chairman may permit

58. Scope of discussion.—The discussion on a resolution shall be strictly relevant to and within the scope of the resolution.

59. Withdrawal of resolution and amendment.—(1) A member in whose name a resolution stands in the list of business may, when called upon, withdraw the resolution and shall confine himself to a mere statement to that effect.

(2) A member who has moved a resolution or amendment to a resolution shall not withdraw the same except by leave of the Corporation.

(3) If a resolution which has been admitted is not discussed during the meeting, it shall be deemed to have been withdrawn.

60. Copy of resolution passed to be sent to the Mayor-in-Council—A copy of every resolution which has been passed by the Corporation shall be forwarded to the Mayor-in-Council.

CHAPTER XI

Removal of Mayor and Chairman

61. Resolution for removal of Mayor.—(1) A resolution for the removal of the Mayor may be moved at a special meeting of the Corporation called for the purpose.

(2) The Chairman shall upon a requisition in writing under clause (c) of sub-section (1) of section 7 by not less than one-third of the elected members convene a special meeting to consider a resolution for the removal of the Mayor.

(3) The requisition shall be accompanied by a copy of the resolution intended to be moved.

(4) Such special meeting shall be called not later than fifteen days from the date of receipt of the requisition.

(5) If the Chairman is of opinion that the resolution is in order, he shall allow the resolution to be moved.

(6) In such special meeting no other matter except the resolution for the removal of the Mayor shall be discussed.

(7) The Chairman may specify time-limit for discussion.

(8) If the resolution is carried by a majority of the total number of elected members, it shall have the effect of removing the Mayor from his

office with immediate effect.

62. *Resolution for the removal of Chairman.*—(1) A resolution for the removal of the Chairman may be moved at a special meeting of the Corporation called for the purpose.

(2) The Chairman shall upon a requisition in writing under clause (c) of sub-section (1) of section 7 by not less than one-third of the elected members convene a special meeting to consider the resolution for the removal of the Chairman.

(3) The requisition shall be accompanied by a copy of the resolution intended to be moved.

(4) Such special meeting shall be called not later than fifteen days from the date of receipt of the requisition.

(5) The Chairman shall not preside at such meeting.

(6) If the person presiding is of opinion that the resolution is in order he shall allow the resolution to be moved.

(7) In such special meeting no other matter except the resolution for the removal of the Chairman shall be discussed.

(8) The person presiding may specify a time-limit for discussion.

(9) If the resolution is carried by a majority of the total number of elected members, it shall have the effect of removing the Chairman from his office with immediate effect.

CHAPTER XII

Points of order

63. *Points of order and decisions thereon.*—(1) A point of order shall relate to the interpretation or enforcement of these rules or such sections of the Act as relate to the business of the Corporation and shall raise a question which is within the cognizance of the Chairman.

(2) A point of order may be raised in relation to the business before the Corporation at any moment :

Provided that the Chairman may permit a member to raise a point of order during the interval between the termination of one item of business and the commencement of another if it relates to the maintenance or order in, or arrangement of business before, the Corporation.

(3) Subject to the conditions referred to in sub-rules (1) and (2), a member may formulate a point of order and the Chairman shall decide whether the point raised is a point of order and if so, give his decisions thereon, which shall be final.

(4) No debate shall be allowed on a point of order, but the Chairman may, if he thinks fit, hear members before giving his decision.

(5) A member shall not raise a point of order—

(a) to ask any information ; or

(b) to explain his position ; or

(c) when a question on any motion is being put to the Corporation ;

or

(d) which may be hypothetical.

CHAPTER XIII

Amendments

64. *Scope of amendments.*—(1) An amendment shall be relevant to, and within the scope of, the motion to which it is proposed.

(2) An amendment shall not be moved which has the effect of a negative vote.

65. *Notice of amendments.*—Notice of an amendment to a motion shall be given one day before the day on which the motion is to be considered, unless the Chairman allows the amendment to be moved without such notice.

66. *Putting of amendments.*—The Chairman may put amendments in such order as he may think fit :

Provided that the Chairman may refuse to put an amendment which in his opinion is frivolous.

CHAPTER XIV

Supplemental

67. *Personal explanation.*—A member may, with the permission of the Chairman, make a personal explanation although there is no question before the Corporation, but in this case no debatable matter may be brought forward and no debate shall arise.

68. *Power of Chairman to amend notices, etc.*—If, in the opinion of the Chairman, any notice, motion or resolution contains words, phrases, or expressions which are argumentative, ironical irrelevant verbose or otherwise inappropriate, he may in his discretion amend such notice before it is circulated.

69. *Admission of strangers.*—The admission of strangers in the Municipal Council Chamber during the sittings of the Corporation shall be regulated in accordance with such directions as the Chairman may from time to time issue.

ANNEXURE A

Form of nomination

(For election of Mayor/Chairman)

[See rule 12(3)]

1. Name of the candidate (in block letter).....
2. Address of the candidate.....
3. No. of the Constituency from which the candidate is elected.....
4. Name in full of the proposer (in block letter).....
5. Address of the proposer.....
6. No. of the constituency from which the proposer is elected.....
7. Signature in full of the proposer.....
8. Date.....
9. Name in full of the seconder.....
10. Address of the seconder.....
11. No. of the constituency from which the seconder is elected... ..
12. Signature in full of the seconder.....
13. Date.....

I signify my assent to the nomination.

.....
Signature in full of the candidate.

Date.....

(To be filled up by the Municipal Secretary)

Certificate of receipt

Serial No.

This nomination was received by me at.....
on

Municipal Secretary,

Published in the *Calcutta Gazette, Extraordinary*, Part I, No. 289A,
dated 20th April, 1983.

FINANCE DEPARTMENT

No. 901-SSD.—(14th April, 1983).—In exercise of the power conferred by sub-section (1), and in particular, by clause (bb) of sub-section (2) of section 44 of the Bengal Money-Lenders Act, 1940 (Ben. Act X of 1940), the Governor is pleased hereby to make, after previous publication, as required by sub-section (1) of the said section, the following amendments in the Bengal Money-Lenders Rules, 1940, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said rules,—

(1) after rule 4, insert the following rule :—

“4A. (1) Inspectors referred to in sub-section (1) of section 6A shall be appointed either by direct recruitment or by transfer from other services, Members of other services can also be appointed Inspectors in addition to their own duties.

(2) A person to be directly recruited as Inspector shall be graduate of a recognised University. He shall not be below 21 years and not above 35 years of age on the 1st January of year of recruitment and shall have knowledge of Bengali.

(3) An Inspector shall have power—

(i) to enter, at all reasonable hours, into any premises where money-lending business is being conducted;

(ii) to inspect documents and books of accounts and take notes therefrom;

(iii) to order the money-lender or any person employed in connection with such money-lending business to produce documents and books of accounts in his office on a specified date and time;

(4) It shall be the duty of an Inspector—

(i) to detect cases of money-lending business which are being carried on without valid licence and report such cases to the Registrar or the Sub-Registrar;

(ii) to enquire into cases of new applications for licence;

(iii) to see that the money-lenders operating within his jurisdiction comply with the provisions of the Act and bring cases of contravention of the provisions of the Act to notice of the Sub-Registrar or the Registrar;

(iv) to carry out directions of the State Registrar or a Registrar or a Sub-Registrar;

(5) The State Registrar, a Registrar or a Sub-Registrar shall exercise general supervision and control over the Inspectors posted within his respective jurisdiction.”

(2) in rule 13, for the words “Secretary to the Government of

Bengal in the Judicial Department", substitute the words "Secretary to the Government of West Bengal in the Finance Department".

Published in the *Calcutta Gazette, Extraordinary*, Part I, No. 645,
24th September, 1981.

EDUCATION DEPARTMENT

No. 575-Edu(SE)/5L-24/83 —(9th September 1981) —In exercise of the power conferred by sub-section (3) of section 1 of the **West Bengal Public Libraries Act, 1979** (West Ben. Act XXXIX of 1979), the Governor is pleased hereby to appoint 10th day of September 1981 as the date on which sections 2, 6, 7, 16 and 23 of the said Act shall come into force.

Published in the *Calcutta Gazette, Extraordinary*, Part I, No. 41,
dated 20th September, 1984.

JUDICIAL DEPARTMENT

No. 18688-J.—(11th September, 1984) —In exercise of the power conferred by Sub-section (2) of section 1 of the **West Bengal Court-fees (Amendment) Act, 1984** (West Ben. Act. XV of 1984), the Governor is pleased hereby to appoint the 25th day of September, 1984, as the date on which the said Act shall come into force.

Published in the *Calcutta Gazette, Extraordinary*, Part I, dated 5th
April, 1984.

FINANCE DEPARTMENT

No. 1021F T —(29th March 1984) —In exercise of the power conferred by the section 25 of the **West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979** (West Ben. Act VI of 1979), the Governor is pleased hereby to make, with effect from the 1st day of April 1984, the following amendment in the **West Bengal State Tax on Professions, Trades, Callings and Employments Rules, 1979**, as subsequently amended (hereinafter referred to as the said rules):—

Amendment

In the said rules, for sub-rule (3) of the rule 6, substitute the following sub-rule:—

"(3) Notwithstanding anything contained in sub-rule (2), where consequent upon the amendment in any of the serial Nos. 2 to 18 of the Schedule to the Act, the rate of tax payable under the Act is changed and a new rate of tax is specified, then the rate of tax payable as mentioned in the last paragraph of the certificate of enrolment in Form IIA granted under rule 4 to the holders of such certificates prior to such amendment shall stand changed to the new rate of tax so specified with effect from the date of coming into force of such amendment."

No. 1035-F.T.—(30th March, 1984) —In exercise of the power conferred by sub-section (1) of section 19 of the **West Bengal Motor Spirit Sales Tax Act, 1974** (West Ben. Act XI of 1974), the Governor is pleased hereby to make, with effect from the 1st day of April 1984, the following amendment in the **West Bengal Motor Spirit Sales Tax Rules, 1974**, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said rules,—

(1) in Form III,—

- (a) in item 9,—
 (i) after the words "Total tax payable", insert the words, figure, letter and brackets "under section 4 (X)";
 (ii) omit the words and letters "Tax paid Rs.";
 (b) after item 9, insert the following items and entries relating thereto :

"9A. Turnover tax payable under section 4A at 1 per cent. of item 4A (Y) Rs."

9B. Total tax payable (X Y) Rs.
 Tax paid Rs.";

- (2) in Form V, for the words, letters and brackets "the amount of tax payable by you for the months/..... months ending the day of..... has been assessed at Rs.....

(in figures)

(Rupees.....:)",
 (in words)

substitute the words, figures, letters and brackets "the amount of tax payable by you under section 4 and section 4A for the *month/..... months ending the day of..... has been assessed at Rs.....

(in figures)

(Rupees.....) and
 (in words)

Rs.....(Rupees.....
 (in figures)

.....) respectively".
 (in words)

No. 1020F.T.—(29th March 1984)—In exercise of the power conferred by sub-section (2) of section 1 of the **West Bengal Taxation Laws (Second Amendment) Act 1984** (West Ben. Act IV of 1984), the Governor is pleased hereby to appoint—

(a) the 1st day of April 1984 as the date on which the provisions of section 1 and 2, clauses (1) to (3); sub-item (B) and (C) of item (i), item (ii) to (iv) and sub-item (A) and (B) of item (vii) of sub-clause (a), sub-item (A) of item (i) and sub-item (A) of item (ii) of sub-clause (b) and sub-clause (c) of clause (4) and clauses (5) to (9) of section 3 and sections 4 to 8, and

(b) the 1st day of May 1984 as the date on which the provisions of sub-item (A) of item (i), item (vii) and sub-item (C) of item (viii) of sub-clause (a) and sub-item (B) of item (i) and sub-item (B) of item (ii) of sub-clause (b) of clause (4) of section 3, of the said Act shall come into force.

Published in the *Calcutta Gazette, (Ext.)*, Part I, No. 538, dated
 September 14, 1984

JUDICIAL DEPARTMENT

No. 1879-Regn.—(3rd September 1984).—In exercise of the power conferred by sub-section (3) of section 1 of the **Registration (West Bengal Amendment) Act, 1984** (West Bengal Act XXIII of 1984), the Governor is pleased

hereby to appoint the 15th day of September 1984 as the date on which section 3 of the said Act shall come into force in the whole of West Bengal.

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 756, dated November 24, 1983.

HIGH COURT AT CALCUTTA

No. 6801 R. O.—(13th June 1983).—The following amendment which have been made by the High Court of Calcutta in the rules contained in chapter VIII of the *Manual of the Court of Small Causes of Calcutta, Volume II* in exercise of the powers conferred by section 27 of the Legal Practitioners, Act, 1872 is published for general information :—

Amendments

I. In page 102 and 103, Chapter VIII, Rule 3 Volume II, substitute the following for the existing Rule 3 :—

"3. Subject to the provisions of section 76 of the Act, the fee payable in suit under the Act by any party in respect of the fee of his adversary's pleader shall be 15 percent of the value of the suit :

Provided that in no case, the amount of such fee shall be less than Rs. 16/-".

II. In page 103, Chapter VIII, Rule 6, Volume II, substitute "Rs. 32/-" for Rs. 16/-" in the third line, and "Rs. 16/-" for "Rs. 8/-" in the fourth line.

III. In page 103, Chapter VIII Rule 7, Volume II, substitute "Rs. 32 for "Rs. 16/-" in the fourth line.

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 82, dated March 13, 1985

HOME DEPARTMENT

No. 218-PAR (AR).—(11th March 1985).—In exercise of the power conferred by sub-section (2) of section 1 of the *West Bengal Districts (Change of Name of Deputy Commissioners) Act 1984* (West Bengal Act XXX of 1984, the Governor is pleased hereby to appoint the 15th day of April 1985 as the date on which the said Act shall come into force.

Published in the *Calcutta Gazette, (Ext.)*, Part I, No. 23, dated 10th January, 1984.

DEPARTMENT OF LOCAL GOVERNMENT AND URBAN DEVELOPMENT

No. 38/C-4/MIA-27/83.—(10th January, 1984).—In exercise of the power conferred by sub-section (2) of section 1 of the *Calcutta Municipal Corporation (Amendment) Ordinance, 1983* (West Ben. Ord. I of 1984), the Governor is pleased hereby to appoint the 11th day of January 1984 as the date on which the said Ordinance shall come into force.

Published in the *Calcutta Gazette*, (Ext.), Part I, No. 407,
dated 24th, June, 1984.

**INDUSTRIAL RECONSTRUCTION
DEPARTMENT**

No. 3779-I.R.—(21st June, 1984).—In exercise of the power conferred by sub-section 1 of the Eastern Distilleries (Private) Limited (Acquisition and Transfer of Undertakings) Act, 1983 (West Ben. Act XLIV of 1983), the Governor is pleased to appoint the 27th day of June 1984 as the date on which the said Act shall come into force.

Published in the *Calcutta Gazette*, (Ext.), No. 474,
dated 1st, October, 1982.

FINANCE DEPARTMENT

No. 3599-F. T.—(28th September, 1982).—In pursuance of the provisions of sub-section (2) of section 1 of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982), the Governor is pleased hereby to appoint the 1st day of October 1982, as the date on which all the provisions of the said Act shall come into force.

Published in the *Calcutta Gazette*, Part I,
dated 12th April, 1984.

LAND REFORMS

No. 422-L. Ref./20R-3/83.—(3rd April, 1984).—In exercise of the power conferred by section 42 of the West Bengal Premises Tenancy Act, 1956 (West Ben. Act XII of 1956), the Governor is pleased to make, after previous publication as required by sub-section (1) of the said section, the following amendment in the West Bengal Premises Tenancy Rules, 1956, published with this department notification No. 11488-L. Ref., dated the 28th June 1956, in the "*Calcutta Gazette*, Extraordinary", of the 28th June 1956, as subsequently amended (hereinafter referred to as the said rules), namely :—

Amendment

In sub-rule (2) of rule 8 of the said rules, after the words "produce his licence" insert the words "alongwith his specimen signature, attested, by the Secretary or the President of the Bar Association of which he is a member under the office seal,".

Published in the *Calcutta Gazette*, (Ext.), Part I,
dated 3rd April, 1984.

FISHERIES DEPARTMENT

No. 2394-Fish(C-IV)/2L-12/83.—(13th April, 1984).—Whereas the Governor is of opinion that it is necessary and expedient so to do for the maintenance of supplies of fish and for securing equitable distribution thereof ;

Now, therefore, in exercise of the powers conferred by sub-section (1), and in particular by clauses, (d), (h), (i), (ii) and (j) of sub-section (2), of section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the Government of India, Ministry of Agriculture (Department of Food) Order No. G.S.R. 316(E), dated the 20th June 1972, the Governor is pleas-

ed hereby to make the following amendments in the West Bengal Fish Dealers' Licensing Order, 1975, published at pages 1949-1957 in Part I of the *Calcutta Gazette Extraordinary*, dated the 12th September 1975, as subsequently amended (hereinafter referred to as the said order):—

Amendments

In the said order,—

(1) in paragraph 2, in clause (c), after the words "shell fish", add the words "and fish seed";

(2) in paragraph 5, for sub-paragraph (5), substitute the following sub-paragraph :—

"(5) The following fees shall be chargeable in respect of each licence :—

(a) for issue of a licence to a dealer other than a producer or for renewal of such licence :—

(i) Rs. 250 for areas :—

(a) within Calcutta, and

(b) within the areas under—

(1) the Howrah Municipal Corporation, and

(2) the Bally Municipality,
in the district of Howrah ;

(ii) Rs. 200 for areas—

(a) (1) within the municipality of Asansol, and

(2) under the Durgapur Notified Area Authority, in the district of Burdwan, and

(b) within the municipality of—

(1) Kharagpur in the district of Midnapore, and

(2) Siliguri in the district of Darjeeling ;

(iii) Rs. 100 for other areas to which this order extends.

(b) (i) For issue of a licence to a producer :—

Rs. 50 per acre of effective water area or part thereof under pisciculture.

(ii) For renewal of a licence of producer :—

Rs. 30 per acre of effective water area or part thereof under pisciculture.

(c) For issue of a duplicate licence to a dealer or a producer :—

Rs. 50 in each case.

Explanation—The fees shall be payable by Treasury Challan and shall not be refunded under any circumstances";

(3) in paragraph 9, in sub-paragraph (1), for the words "Superintendent of Fisheries", substitute the words "Assistant Director of Fisheries";

(4) in paragraph 12, in clause (i), after the words "Central Government", add the words "or any State Government or Central Government undertaking or enterprise";

(5) for Schedule I, substitute the following Schedule :—

"SCHEDULE I

A. For a dealer other than a producer :—

(i) The whole of the district of 24-Parganas ;

(ii) The whole of the areas—

(a) within the municipality of Asansol, and

- (b) under the Durgapur Notified Area Authority, in the district of Burdwan ;
- (iii) The whole of the areas—
 - (a) within the municipality of Kharagpur, and
 - (b) under the police-station of Digha, in the district of Midnapore ;
- (iv) The whole of the areas within the municipality of Siliguri in the district of Darjeeling ;*
- (v) The whole of the areas under—
 - (a) the Howrah Municipal Corporation, and
 - (b) the Bally Municipality, in the district of Howrah.
- B. For a producer :—
 - (i) Calcutta, and
 - (ii) the whole of the district of—
 - (a) Howrah,
 - (b) Hooghly,
 - (c) Nadia, and
 - (d) 24 Parganas."

Published in the *Calcutta Gazette*, Part IV, dated April 5, 1984.

EDUCATION DEPARTMENT

No. 432-Edn (U).—(30th March 1984).—In exercise of the power conferred by sub-section (2) of section 1 of the **Burdwan University Act, 1981** (West Ben Act XXIII of 1981), the Governor is pleased hereby to appoint the 15th day of April, 1984 as the date on which the provisions of sections 2 to 7, sections 9 to 38 and sections 41 to 56 of the said Act shall come into force.

No. 433-Edn (U).—(30th March 1984).—In exercise of the power conferred by sub-section (2) of section 1 of the **Burdwan University (Amendment) Act, 1983** (West Ben. Act XVII of 1983), the Governor is pleased hereby to Appoint the 15th day of April 1984 as the date on which the provisions of sections 3, 4 and 5 of the said Act shall come into force.

No. 434-Edn (U).—(30th March 1984).—In exercise of the power conferred by sub-section (5) of section 57 of the **Burdwan University Act, 1981** (West Ben. Act XXIII of 1951), the Governor is pleased hereby to appoint the 15th day of April 1984 as the date on and from which the Court, the Executive Council, the Faculty Councils for Post-Graduate Studies, the Councils for Undergraduate Studies and the Boards of Studies of the University of Burdwan shall commence to exercise their respective functions and the Statutes, the Ordinances and the Regulations of the former University as reviewed or amended, as the case may be, under sub-section (2) of the said section 57 shall come into force and shall respectively be the first Statutes, the first Ordinances and the first Regulations of the University of Burdwan.

Published in the *Calcutta Gazette (Extraordinary)*, Part I-No. 32, dated January 14, 1984.

FINANCE DEPARTMENT

No. 17-F.T.—(2nd January, 1984).—In exercise of the power conferred by sub-section (1) of section 12 of the **Bengal Amusements Tax Act, 1922**

(Ben Act V of 1922), the Governor is pleased hereby to make the following amendments in the "rules for securing the payment of the entertainments tax (and surcharge) in respect of entertainments other than race-meetings", published under the Government of Bengal notification No 2928-Mis., dated the 16th September 1922, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said rules,—

(1) in rule 15, for the words "entertainments tax" substitute the words "entertainments tax, surcharge and additional surcharge",

(2) after rule 25, insert the following rules and forms:—

"26. Every proprietor in relation to a cinematograph exhibition shall submit under clause (a) of section 4, of the Act to the assessing authority a return in form XX, separately for each cinema house for each week, by Tuesday immediately following the week to which the return relates

Explanation.—For the purpose of this rule "week" means a week commencing on Friday and ending on Thursday.

27. When it appears to assessing authority to be necessary to make an assessment under sub-section (2) of section 8A of the Act in respect of a proprietor in relation to a cinematograph exhibition he shall serve a notice in form XXI upon him—

(a) stating the return period or periods in respect of which the assessment is proposed,

(b) asking the proprietor to produce his books of accounts and other documents which such authority wishes to examine together with any objection which the proprietor may wish to prefer and any evidence which he may wish to produce in support thereof,

(c) directing the proprietor to show cause as to why a penalty, not exceeding double the amount of entertainments tax, surcharge and additional surcharge, payable under sub-section (2) of section 8A of the Act shall not be imposed for his failure to submit return to returns within the prescribed or specified date or dates, and he shall fix a date ordinarily not earlier than fifteen days from the date of issue of notice for producing such accounts and documents and for considering any objection which the proprietor may prefer.

28. After considering the objection made by the proprietor and the evidence produced in support thereof, the assessing authority shall assess under sub-section (2) of section 8A of the Act the amount of entertainments tax, surcharge, additional surcharge and penalty to be paid by the proprietor, and shall briefly but clearly record the reasons on which he bases his order.

29. If after assessment under rule 28, any entertainments tax, surcharge additional surcharge or penalty is found to be due from a proprietor, the assessing authority shall serve a notice in form XXII on the proprietor specifying the date, not earlier than thirty days from the date of service of the notice, within which payment shall be made, and he shall also send a copy of the assessment order to the proprietor along with the notice.

30. If, after assessment, the amount of tax, surcharge or additional surcharge is found to have been paid by a proprietor in excess of the amount due from him under the Act, the assessing authority shall serve a notice in form XXII upon such proprietor informing him of the amount paid by him in excess. The proprietor shall, within six months from the date of receipt of such notice, apply to the assessing authority claiming the refund of the excess amount either in cash or by adjustment against the amount subsequently payable by him and the assessing authority shall, if he is satisfied that the refund is due, pass an order sanctioning the refund in the manner desired by the proprietor.

31. Subject to the provisions of rule 38, in the case of default in making payment of any entertainments tax, surcharge, additional surcharge or penalty due by the date specified in a notice of demand issued under rule 29, the assessing authority shall apply to the Certificate-officer within whose jurisdiction the place of cinematograph exhibition, in relation to which the entertainments tax, surcharge, additional surcharge or penalty is due, is located for recovery of the unpaid amount of the entertainments tax, surcharge, additional surcharge or penalty, as the case may be, as public demand.

Explanation.—For the purpose of this rule, the expression 'Certificate-officer' shall have the same meaning as in clause (3) of section 3 of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

32. For purposes of rules 26 to 31, 33, 37, 39 and 40 the assessing authority shall mean the authority mentioned in column I of the Schedule below in respect of a proprietor in relation to a cinematograph exhibition whom such exhibition is made within the areas mentioned in column 2 of the said Schedule:—

SCHEDULE

1	2
Areas—	
I. Commercial Tax Officer, referred to in clause (f) of sub-rule (2) of rule 1 of the Bengal Sales Tax Rules, 1941, posted to Amusement	(a) described in Schedule I to the Calcutta Municipal Act, 1951, as deemed to have been amended by section 594 of the said Act. (b) mentioned in clause (b) of sub-section (3) of section 1 of the Bengal Amusements Tax Act, 1922 (Ben. Act V of 1922, and (c) within the Municipalities of Garden Reach, South Suburban, Baranagar, Dum Dum and South Dum Dum.
II. Sub-Divisional Officer	Respective Sub-division within which the Sub-Divisional Officer exercises jurisdiction but excluding areas, if any, within a sub-division mentioned under this column against serial No. I.

33. An appeal against an order of assessment passed by the assessing authority mentioned in column 1 of the Schedule below, shall lie to the authority specified in column 2. thereof.

SCHEDULE

1	2
I Commercial Tax Officer	Assistant Commissioner, Commercial Taxes, referred to in clause (c) of sub-rule (2) of rule 1 of the Bengal Sales Tax Rules, 1941, posted to Central Section.
II. Sub-Divisional Officer	Collector or Deputy Commissioner of the respective District or Additional Collector/Additional Deputy Commissioner, if so directed by the Collector or Deputy Commissioner.

34. *The memorandum of appeal.*—(i) shall contain the following particulars namely:—

- (a) the date of order appealed against;
- (b) the name and designation of the officer who passed order;
- (c) the grounds of appeal briefly but clearly set out;
- (d) the date of receipt of the notice of demand issued under rule 29 or 30;
- (e) the amount of entertainments tax, surcharge, additional surcharge admitted to be due from the appellant;
- (ii) shall be accompanied by a copy of the order appealed against;

(iii) shall be endorsed by the appellant or by an agent authorised by the appellant as follows:—

(a) that such amount of entertainments tax, surcharge and additional surcharge as the appellant admits to be due from him has been paid; and

(b) that to the best of his knowledge and belief the facts set out in the memorandum are true;

(iv) shall be signed by the appellant or by an agent authorised in writing in this behalf by the appellant and shall be accompanied by the fee prescribed in rule 42.

35. If the appellant fails to comply with the requirements either of clause (iii) or clause (iv) of rule 34, the appeal shall be summarily rejected, and it may be so rejected if he fails to comply with the requirements of clause (i) or clause (ii) of that rule after giving the appellant such opportunity as the appellate officer thinks fit to amend the memorandum of appeal so as to bring it into conformity with such requirements.

36. If the appellate officer does not reject the appeal summarily under rule 35, he shall fix a date for hearing the appellant and inform the appellant accordingly.

37. The appellate officer shall send a copy of the order passed on appeal to the assessing authority.

38. The appellate officer may, for sufficient reason, stay wholly or partly the realisation of dues.

39. If there is any reduction or enhancement or annulment of the assessment by the appellate officer or if the assessment order is set aside by the appellate officer and if the demand is already under certificate the assessing authority shall immediately inform the certificate officer accordingly.

40. The assessing authority shall not, of its own motion, review any assessment made under the Act or under these rules if the time within which an appeal may be made by the proprietor has not expired.

41. Any notice which is issued under the provisions of the Act or these rules or which is required to be issued for carrying out the purposes of the Act, may be served on the proprietor by any of the following methods, namely :—

(i) personally upon the addressees, if present;

(ii) by messenger;

(iii) by registered post :

Provided that if the authority issuing the notice is satisfied that the proprietor is avoiding service or that for any other reason the notice cannot be served by any of the above mentioned methods the said authority may cause such notice to be served by affixing a copy there of in some conspicuous place in his office and also upon some conspicuous part of the last known address of the proprietor or at the cinema house to which the notice relates. A notice so served shall be deemed to have been duly served.

42. The following fees shall be payable :—

(i) upon a memorandum of appeal against an assessment order—Rs. 25;

(ii) upon a memorandum of review against an assessment order—Rs. 20.

All fees payable under the Act or these rules shall be paid in Court-fee stamp.

FORM XX

(See rule 26)

Return of entertainments tax, surcharge and additional surcharge payable under the Bengal Amusements Tax Act, 1922 for the week ending on.....

1. Name of the proprietor :
2. Address of the proprietor :
3. Name of the cinema house :
4. Address and police station :
5. Licence No. under the West Bengal Cinemas (Regulations) Act, 1954. :
6. Name of the film exhibited :
7. Language of the film exhibited :
8. Name of the distributor :
9. If the proprietor comes under the purview of section 4(A) of the Act :

from any particular day of the week
for which the return is filed, specify
that day.

PART A

Opening stock of stamp (a)	Stamp purchased during the week (b)	Stamp used during the week (c)	Closing Bal- ance of stamp (d)
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PART B

(1) Classes according to value (excluding enter- tainments tax, surcharge and addl. surcharge	(2) Number of seats (i. e. full house capacity)	(3) Total number on account of
---	--	-----------------------------------

Name, if any	Value of each ticket	Tickets sold (a)	Tickets refunded (b)	Admission on a/c. of tickets sold (c)
				(a) minus (b)
(A) ...	...	(A)	...	...
(B)		(B)		
(C)		(C)		
(D)		(D)		
(E)		(E)		
(F)		(F)		
(4) Admission on a/c of complimentary tickets/passes used.	(5) Total number of admi- ssion [column 3(c) plus (4)]	(6) Entertainments tax pay- able u/s 3(3a)		
	(a)	(b)	(a)	(b)
with addl. surcharge	without addl. surcharge	Rate of enter- tainments tax per ticket	Total entertain- ments tax pay- able (6a) X (5)	
(A)	(A)	..	(A)	...
(B)	(B)	...	(B)	...
(C)	(C)	...	(C)	...
(D)	(D)	...	(D)	...
(E)	(E)	..	(E)	...
(F)	(F)	...	(F)	..

7)
Additional surcharge payable u/s 3(3aa)

(a)	(b)
Rate per ticket	Total addl. surcharge payable (7a)X(5a)

(A)	at.....paise	(A)	...	
(B)	...	(B)	..	
(C)	...	(C)	..	
(D)	...	(D)	...	
(E)	...	(E)	..	
(F)	...	(F)	..	Rs. P.

(8) Ent. Tax payable u/s
3(3a) [vide col. (6)]
Addl. surcharge u/s 3(3aa)
[vide col. (7)]
Surcharge payable at the rate of
10 paise on total number of ad-
mission shown in column 5.

Total payable—————

Less paid by use of stamps

[vide col. (c) of part A]

Balance, if any, paid by Trea-
sury/Bank

Challan No.....date.....for Rs.....
of.....Treasury/Bank.

The above statement is true to the best of my knowledge and belief.
Date—————Sd/-

Proprietor

Strike out the portion which is not
applicable.

FORM XXI

(See rule 27)

To..... Proprietor of
(name of the cinema house)(address)

Whereas—

*(a) You, a proprietor, have not submitted return/returns under sec-
tion 4 of the Bengal Amusements Tax Act, 1922, for the week/.....
ending on the.....day of...../period from
.....to.....

[b] The return/returns under section 4 of the Bengal Amusements
Tax Act, 1922, for the weeks ending on the...../period from
.....to.....submitted by you appear/appears to
be incorrect or incomplete ;

And whereas it appears to me to be necessary to make an assessment
under sub-section (2) of section 8A of the Bengal Amusements Tax Act,
1922 in respect of the abovementioned week/weeks or period ;

You are hereby directed to attend in person or by an agent at.....
.....on.....at.....and there
(place) (date) (time)

to produce, or cause there to be produced, at the said time and place the
accounts and documents relating to your business along with the register in
Form XIV and copies of sale statement or receipt together with any objec-
tion which you wish to prefer and any evidence you may wish to adduce in
support thereof

*and

to show cause on that date and at that time why in addition to the amount of entertainments tax, surcharge and additional surcharge to be assessed on you for the week/.....weeks ending on the..... day of..... period from.....to a penalty not exceeding double the amount of entertainments tax, surcharge and additional surcharge so assessed shall not be imposed under sub-section (2) of section 8A of the Bengal Amusements Tax Act, 1922.

In the event of your failure to comply with this notice, I shall assess the amount of entertainments tax, surcharge and additional surcharge leviable on you and impose penalty under section 8A of the Bengal Amusements Tax Act, 1922 to the best of my judgment without further reference to you-

Date....., ... Assessing Authority

Particulars of accounts and documents required for the week/
.....weeks ending.....period/from.....to

1. Sale Register.
2. Stock Register of Stamps.
3. Profits and Loss A/c.
4. Balance Sheet.
5. Film Booking Contracts.
6. Register of Stock and Printing of tickets-
6. Register in Form XIV.
8. Any other documents in support of correction or reconciliation of sales and matters Relating thereto.

*Strike out whichever is not applicable.

FORM XXII

(See rules 29 and 30)

Demand notice

To.....
Proprietor of..... (name of the cinema house)
.....(address)

*In continuation of the notice in Form XXI served on you on day of.....19...../*with reference to your petition of appeal, dated the.....day of.....19..... before the Appellate authority you are hereby, informed that for the *week or... .. weeks ending on the day..... 19 /*period from..... to.....entertainments tax, sucharge and additional surcharge leviable on you has been assessed as per details below ; further, under sub-section (2) of section 8A of the Act, you are to pay Rs..... (in figures) (Rupees.....)as penalty.

(in words)

You are hereby directed to pay the sum of Rs (in figures)..... (Rupees.....) as per details below into the Calcutta (in words)

Collectorate Treasury/Government Treasury at..... on or before (date) and to produce the receipt in proof of the payment before the undersigned not later than the.....

day of failing which the said sum of Rs. (in figures)..
 (Rupees) will be recoverable
 (in words)

from you as a public demand.

Details :

Rs. P.

Entertainments tax, surcharge and additional surcharge, assessed to be payable.

Penalty under section 8A (2)

Less entertainment tax, surcharge and additional surcharge paid..

Penalty paid

Due—entertainment tax, surcharge and additional surcharge ..

Penalty

Excess paid.

Seal

Assessing Authority

Address.....

Dated.....

*Strike out whichever is not applicable.

Published in the *Calcutta Gazette (Ext.)*, Part I, No 804, dated December 23, 1933.

COMMERCE AND INDUSTRIES DEPARTMENT

No. 3325-CI/WM.—(22nd December 1933.—In exercise of the power conferred by section 39 of the West Bengal Standards of Weights and Measures (Enforcement) Act, 1958 (West Ben. Act XXIII of 1958), the Governor is pleased hereby to make, after previous publication as required by sub-section (4) of the said section, the following amendments in the **West Bengal Standards of Weight and Measures (Enforcement) Rules, 1959** published with this department notification No. 949-WM, dated the 28th August 1959, at page 1839-1917 of Part I of the "Calcutta Gazette Extraordinary" of the 5th September 1959, as subsequently amended (hereinafter referred to as the said rules —

Amendment

In the said rules—

(1) In rule 21, omit clause (ii) ;

(2) to rule 22, add the following proviso :—

"Provided that every person, immediately after his appointment as Inspector on temporary basis, shall undergo six weeks' training. Upon the completion of such training satisfactorily, he may be assigned all or any of the duties mentioned in this rule. Failure to complete the training satisfactorily and to pass the prescribed departmental examinations within the period of temporary service followed by the period of probation may render him unsuitable for continuance in service, confirmation and earning of increments, and if required his period of probation may be extended".

Published in the *Calcutta Gazette (Ext.)*, Part I, No. 137, dated April 24, 1985

HIGH COURT CALCUTTA

Appellate Side

No. 4607-G.—(19th April 1985)—In exercise of the powers vested in me under Article 229(2) of the Constitution of India, I, the Chief Justice of the High Court at Calcutta, do hereby make the following rules further to amend the Calcutta High Court Service (Conditions of Service and Recruitment) Rules, 1960, namely :—

1. (1) These rules may be called the **Calcutta High Court Service (Conditions of Service and Recruitment) Amendment Rules, 1985**.

(2) They shall be deemed to have come into force with effect from 24th December, 1979.

2. In the Calcutta High Court Service (Condition of Service and Recruitment) Rules, 1960, the following shall be substituted and inserted, namely :—

(a) Substituted the full stop (.) at the end of the existing rule 12 by a colon (:).

(b) Insert the following after the existing rule 12 :—

“Provided that notwithstanding anything contained in any of these rule or any rule elsewhere, no person shall be considered for promotion from the post of Lower Division Assistant on the Appellate Side or Original Side, as the case may be, to the next higher grade post in the cadre of Upper Division Assistants (viz, Technical Assistant, Court Clerk, Upper Division Assistants including General Assistants, Translators and Commissioner of Affidavits on the Appellate Side and Chamber Clerk, Reference Clerk, Drawing Clerks Upper Division Assistants, Court Clerks, General Assistant to the Deputy Registrar and the Commissioner of Affidavits on the Original Side) unless he has put in at least five years' continuous service as Lower Division Assistant and has also been confirmed in that post”.

The amendment to item No. (viii) appearing under sub-heading “(A) APPELLATE SIDE” below rule 7 to Annexure I at page 8 of the Calcutta High Court Service Rules, 1960 as made by notification No. 16590-G, dated the 24th December, 1979 is hereby repealed.

SATISH CHANDRA,
Chief Justice.

THE END

PART XI
MADHYA PRADESH ACTS, ORDINANCES
& NOTIFICATIONS

1985

THE MADHYA PRADESH SHASAKIYA SEVAK (ADHIVARSHIKI-AYU) SANSHODHAN ADHINIYAM, 1984

The following Act received the assent of the Governor on 14th November 1984, and was published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 15th November, 1984.

MADHYA PRADESH ACT NO. 35 OF 1984

An Act further to amend the Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Adhiniyam, 1967.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India, as following :—

1. *Short title.*—This Act may be called the **Madya Pradesh Shasakiya Sevak (Adhivarshiki-Ayu) Sanshodhan Adhiniyam, 1984.**

2. *Amendment Fundamental Rule 55 as the substituted in section 2 of the Principal Act.*—In Section 2 of the Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Adhiniyam, 1967 (No. 29 of 1967) (hereinafter referred to as the Principal Act), after sub-rule (1) of rule 56, the following sub-rule shall be inserted, namely :—

“(1-a) Subject to the provisions of sub-rule (3), every Government teacher shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years :—

Provided that a Government teacher whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceeding month on attaining the age of sixty years.

Explanation —For the purpose of this sub-rule ‘Teacher’ means a Government servant by whatever designation called, engaged in teaching in an educational institution including technical or medical institutions, run by Government.”

3. *Amendment made by section 2 shall have retrospective effect.*—The amendment made by section 2 of this Act in the Principal Act, shall be deemed to have been made with effect from the 5th day of September, 1984.

4. *Repeal.*—The Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Sanshodhan Adhyadesh, 1984 (No. 23 of 1984), is hereby repealed.

THE MADHYA PRADESH MUNICIPALITIES (AMENDMENT) ACT, 1984

The following Act received the assent of the Governor on the 17th November, 1984, and was published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 19th November, 1984.

MADHYA PRADESH ACT NO. 38 OF 1984

An Act to amend the Madhya Pradesh Municipalities Act, 1961

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh Municipalities (Amendment) Act, 1984.**

2. *Insertion of new section 337-A.*—After section 337 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) (hereinafter referred to as the principal Act), the following section shall be inserted, namely :—

“337. *Dissolution of Council in the event of establishment of a Special Area Development Authority.*—Where a Special Area Development Authority (hereinafter referred to in this section as Authority) constituted under the Madhya Pradesh Nagar Tatha-Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973) (hereinafter referred to as the said Adhiniyam) has been entrusted with the functions specified in clauses (v) and (vi) of Section 68 of the said Adhiniyam, in respect of any special area in which a Municipal Council existed prior to its designation as special area, then notwithstanding anything contained in this Act, as from the date of entrustment of the said functions, the following consequences shall ensue, namely :—

(a) the Council of the said Municipality shall stand dissolved ;

(b) the Councillors of the Council shall vacate their offices as Councillors.

(c) all powers and duties of the Council under this Act may, in so far as they relate to the functions so entrusted, may until the Council is reconstituted be exercised and performed in the like manner by the Authority.

(d) the properties vested in the Council together with all assets and liabilities shall, stand transferred to the Authority which shall hold it in trust for the purposes of this Act ;

(e) all appointments, rules, bye-laws made, notifications and notices issued, taxes imposed contracts entered into, suits instituted and proceedings taken by in respects of such Council, licences or permissions made, issued, proposed sanctioned or given by the Council within the Municipality shall continue until altered, modified, cancelled, suspended or withdrawn, as the case may be, by the Authority ;

(f) all rates, taxes and sums of money due to the Council on the said date shall be deemed to be the Authority ; and

(g) all suits or other legal proceedings, civil or criminal, instituted by or against the Council may be continued by or against the Authority.”

3. *Amendment to have retrospective effect.*—The amendment by Section 2 shall be and shall always be deemed to have formed part of the Principal Act from the date the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973), come into force in any area.

4. *Repeal.*—The Madhya Pradesh Municipalities (Amendment) Ordinance, 1984 (No. 11 of 1984) is hereby repealed.

THE MADHYA PRADESH KRISHI UPAJ MANDI (SANSHODHAN) ADHINIYAM, 1984

The following Act received the assent of the Governor on 19th November, 1984, and was published in the *Madhya Pradesh Gazette*, (Ext), dated the 19th November, 1984.

MADHYA PRADESH ACT NO. 45 OF 1984

An Act further to amend the Madhya Pradesh Krishi Upaj Mandi Adhinyam 1972.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh Krishi Upaj Mandi (Sanshodhan) Adhinyam 1984**.

2. *Amendment of Section 11.*—In sub-section (5) of section 11 of the Madhya Pradesh Krishi Upaj Mandi Adhinyam, 1972 (No. 23 of 1973) for the words “for a period of five years”, the words for a period of five years and six months” shall be substituted.

3. *Repeal.*—The Madhya Pradesh Krishi Upaj Mandi (Sanshodhan) Adhyadesh, 1984 (No. 21 of 1984) is hereby repealed.

THE MADHYA PRADESH GENERAL SALES TAX (AMENDMENT) ACT, 1984.

The following Act received the assent of the Governor on the 5th November, 1984 and was published in the *Madhya Pradesh Gazette*, (Ext), dated November 13, 1984.

MADHYA PRADESH ACT NO. 32 OF 1984.

An Act further to amend the Madhya Pradesh General Sales Tax Act, 1958.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh General Sales Tax (Amendment) Act, 1984**.

2. *Amendment of Section 2.*—In section 2 of the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1958) (hereinafter referred to as the Principal Act),—

(1) for clause (n), the following clause shall be substituted, namely :—

“(n) ‘Sale’ with all its gramatical variation and cognate expressions means any transfer of property in goods for cash or deferred payment or for other valuable consideration and includes—

(i) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration ;

(ii) a transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract ;

(iii) a delivery of goods on hire purchase or any system of payment by instalments ;

(iv) a supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration ;

(v) a supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption of any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration ;

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of these goods by the person to whom such transfer, delivery or supply is made but does not include a transfer of the right to use any goods for any purpose (whether or not for a specified period), a mortgage, hypothecation, charge or pledge.

Explanation—(a) Notwithstanding anything contained in the Sale of Goods Act, 1930 (III of 1930), where a sale or purchase of these goods takes place in pursuance of contract of sale, such sale or purchase shall be deemed, for the purpose of this Act, to have taken place in the State wherever, the contract of a sale or purchase might have been made, if the goods are within the State,—

(i) in the case of specific or ascertained goods, at the time the sale or purchase is made ; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation ; and

(b) where there is single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if there were separate contracts in respect of goods at each of such place ;” ; and

(2) in clause (o), the existing Explanation shall be numbered as Explanation I and after Explanation I, as so numbered, the following Explanation shall be inserted, namely :—

“*Explanation II*.—Where goods are sold on hire purchase or any system of payment by instalments, the sale price of such goods shall be exclusive of insurance charges, interest and hire charges and such other charges as may be prescribed ;”.

3. *Amendment of section 4*.—In sub-section (5) of section 4 of the Principal Act,—

(i) in clause (c), for the words “Fifty Thousand Rupees”, the words “One lac Rupees” shall be substituted.

(ii) after clause (c), the following clause shall be inserted, namely :—

“(cc) in relation to a dealer who enters into a works contract and in execution thereof supplies goods (whether as goods or in some other form) Fifty Thousand Rupees”

(iii) for clause (d), the following clause shall be substituted, namely :—

“(d) in relation to a dealer not falling in clauses (a), (b), (c), and (cc) —One Lac Rupees” ; and

(iv) in the Explanation, for the letter and brackets “(c)” the letter and brackets “(c), (cc)” shall be substituted.

4. *Amendment of section 7*.—For clause (a) of sub-section (1) of Section 7 of the Principal Act, the following clause shall be substituted, namely :—

“(a) sold or disposed of otherwise ; or.”

5. *Amendment of section 16-A*.—In sub-section (3) of section 16-A of the Principal Act, for the words and figure “at the rate of five per cent per annum” the words, “at such rate as may be prescribed” shall be substituted.

6. *Repeal*—The Madhya Pradesh General Sales Tax (Amendment) Ordinance, 1984 (No. 10 of 1984), is hereby repealed.

THE MADHYA PRADESH UPKAR (TRITIYA SANSHODHAN) ADHINIYAM, 1984.

The following Act received the assent of the Governor on the 17th November, 1984 and was published in the "*Madhya Pradesh Gazette*" (Ext.), dated the 19th November 1984.

MADHYA PRADESH ACT NO. 47 OF 1984.

An Act further to amend the Madhya Pradesh Upkar Adhiniyam, 1981.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth year of the Republic of India as follows :—

1. *Short title*—This Act may be called the Madhya Pradesh Upkar (Tritiya Sanshodhan) Adhiniyam 1984.

2. *Amendment of Section 3*.—Item (ii) of the proviso to sub-section (1) of section 3 of the Madhya Pradesh Upkar Adhiniyam 1981 (No. 1 of 1982), shall be omitted.

3. *Repeal*.—The Madhya Pradesh Upkar (Sanshodhan) Adhyadesh, 1984 (No. 26 of 1984), is hereby repealed.

THE MADHYA PRADESH KRISHI PRAYOJAN KE LIYE UPAYOG KI JA RAHI DAKHAL RAHIT BHOOMI PAR BHOOMISWAMI ADHIKARON KA PRADAN KIYA JANA (VISHESH) UPA BANDA) ADHINIYAM, 1984

The following Act received the assent of the Governor on the 21st October 1984 ; and was published in the "*Madhya Pradesh Gazette*" (Ext.), dated the 21st October 1984.

MADHYA PRADESH NO. 30 OF 1984

An Act to make special provision for conferral of Bhoomiswami rights on persons in possession of unoccupied land for purpose of agriculture in certain circumstances.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and extent*—(1) This Act may be called the Madhya Pradesh Krishi Prayojan Ke Liye Upayog Ki Ja Rahi Dakhal Rahit Bhoomi Par Bhoomiswami Adhikaron Ka Pradan Kiya Jana (Vishesh Upabandh) Adhiniyam, 1984

(2) It extends to the whole of Madhya Pradesh.

2. *Definitions*—In this Act, unless the context otherwise requires,—

(a) "agricultural labourer" means a person who does not hold any land and whose principal means of livelihood is manual labour on land and any member of his family of which he is a member does not hold any land ;

(b) "code" means the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) ;

(c) the words and expressions used in this Act but not defined shall have the meaning assigned to them in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).

3. *Conferral of Bhoomiswami rights on agricultural labourer*.—(1) All unoccupied land in a village in possession of an agricultural labourer on the

2nd October 1984 shall, notwithstanding anything contained in the Code, or the rules made thereunder shall be held by such person as from the said date, in Bhoomiswami rights and he shall be a Bhoomiswami of the said land for all purposes of the Code and any other enactment for the time being in force:

Provided that such conferral of Bhoomiswami rights shall not be for such land exceeding to hectares:

Provided further that nothing contained in this section shall apply in respect of land—

(a) set apart under section 237 of the Code for the following purposes:—

- (i) for burial ground and cremation ground;
- (ii) for gaqthan;
- (iii) for threshing floor;
- (iv) for skinning ground;
- (v) for bazar;
- (vi) for public purpose such as schools, playgrounds, parks, roads, lanes and drains;

(b) held or reserved by the Central Government or the State Government for any specific purpose;

(c) which stands allotted to any person other than the person in possession of the land on the said date.

(2) Nothing contained in sub-section (1) shall apply unless the agricultural labourer is in possession of the land in the village in which he resides and none of the members of his family holds any land.

Explanation.—For purposes of sub-section (2) the family shall be deemed to consist of the spouse, issues, parents and any other person dependent on him.

4. *Transfer or diversion not permissible.*—The agricultural labourer who becomes Bhoomiswami under section 3 shall, notwithstanding anything contained in the Code, not be entitled to transfer the said land to any other person or to divert it for any other purpose.

5. *Power to make rules.*—(1) The State Government may make rules generally for the purpose of carrying into effect the provisions of this Act.

(2) Rules made under this Act shall be laid on the table of the Legislative Assembly.

6. *Removal of doubt.*—For removal of doubt it is hereby declared that in the event of there being a dispute as to whether the land stood allotted or not, the conferral of right under clause (c) of section 3 shall be subject to the decision of the appropriate authority as may be prescribed.

THE MADHYA PRADESH NIRASHRITON AVAM NIRDHAN VYAKTIYON KI SAHAYATA (SANSHODHAN) ADHINIYAM, 1984.

The following Act received the assent of the Governor on the 13th November 1984; and was published in the "*Madhya Pradesh Gazette*" (Ext.), dated the 15th November 1984.

MADHYA PRADESH ACT NO. 33 OF 1984

An Act further to amend the Madhya Pradesh Nirashriton Avam Nirdhan Vyaktiyon Ki Sahayata Adhinyam, 1970.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the **Madhya Pradesh Nirashriton Avam Nirdhan Vyaktiyon Ki Sahayata (Sanshodhan) Adhiniyam, 1984.**

2. *Amendment of long title.*—For the Long title of the Madhya Pradesh Nirashriton Avam Nirdhan Vyaktiyon Ki Sahayata Adhiniyam, 1970 (No. 12 of 1970) (hereinafter referred to as the Principal Act), the following long title shall be substituted, namely:—

“An Act to make provision for assistance to destitutes and indigent persons by making it obligatory on the Local authorities to provide relief to them and to set-up and maintain homes for them and for matters connected therewith.”

3. *Amendment of section 4.*—In Section 4 of the Principal Act,—

(1) for clause (i) of sub-section (1), the following clause shall be substituted, namely:—

“(i) Contribute annually in such proportion as may be prescribed towards the expenditure incurred on carrying into effect the provisions of this Act, in the area falling within the jurisdiction of the market committee concerned”.

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Collector may, by order, apportion 25 percent, of the contribution payable by a market committee under clause (i) of sub-section (1) and of the collections made by a market committee under clause (ii) thereof between the several local authorities within the jurisdiction whereof the market area concerned falls.”

(3) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2-A) The amount remaining after apportionment under sub-section (2) shall be utilised for the purpose of setting up and maintaining homes for destitutes and indigent persons in the area falling within the jurisdiction of the market committee concerned.

Provided that the State Government may having regard to the need of such homes in any other area order the utilisation of not exceeding ten per cent of the remaining amount for setting up and maintaining homes for destitutes and indigent persons in such other area outside the Jurisdiction of the market committee concerned.

(2-B) The homes for destitutes and indigent persons shall be set up and maintained in such manner as may be prescribed.”

4. *Insertion of new Section 4-A.*—After Section 4 of the Principal Act, the following section shall be inserted, namely:—

“4-A *Constitution of Committee.*—The State Government may constitute committee at State, and district level in such manner and consisting of such number of members as may be prescribed to advise the State Government in the matter of setting up and maintaining homes for destitutes and indigent persons.”

5. *Amendment of section 9.*—In Section 8 of the Principal Act, for the word and figure “Section 3”, the words, figures, letter and brackets “Section 3 and sub-section (2-A) of section 4” shall be substituted.

6. *Amendment of Section 9.*—After clause (b) of sub-section (2) of sec-

tion 9 of the Principal Act, the following clauses shall be inserted, namely :—

“(b-1) the manner in which homes shall be set up and maintained under sub-section (2-B) of section 4 ;

(b-2) the manner in which committees shall be constituted under section 4-A and number of members of such committees”.

7. *Repeal.*—The Madhya Pradesh Nirashriton Vyaktiyon Ki Shayate (Sanshodhan) Adhyadesh, 1984 (No. 15 of 1984) is hereby repealed.

**THE MADHYA PRADESH NAGARIYA KSHETRON KE BHOOMI-
HIN VYAKTI (PATTADHRTI ADHIKARON KA PRADAN
KIYA JANA) SANSHODHAN ADHINIYAM, 1984**

The following Act received the assent of the Governor on the 14th November, 1984 ; and was published in the *Madhya Pradesh Gazette (Ext.)*, dated the 15th November, 1984

MADHYA PRADESH ACT NO. 34 OF 1984

An Act to amend the Madhya Pradesh Nagariya Kshetro Ke Bhoomihin Vyakti (Pattadhriti Adhikaron ka Pradan Kiya Jana) Adhiniyam, 1984.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh Nagariya Kshetro Ke Bhoomihin Vyakti (Pattadhriti Adhikaron Ka Pradan Kiya Jana) Sanshodhan Adhiniyam, 1984.**

2. *Amendment of Section 2.*—In Section 2 of the Madhya Pradesh Nagariya Kshetro Ke Bhoomihin Vyakti (Pattadhriti Adhikaron ka Pradan Kiya Jana) Adhiniyam, 1984 (No. 15 of 1984) (hereinafter referred to as the Principal Act),—

(i) for clause (b) the following clause shall be substituted, namely :—

“(b) ‘dwelling house’ means a single storyed hut or a single storyed super structure but shall not include any building owned by the Government or any local or statutory authority;”;

(ii) clause (c) shall be omitted ;

(iii) for clause (d) the following clause shall be substituted, namely :—

“(d) ‘landless person’ means a person who does not,—

(i) own any land in an urban area where he is actually residing ;

(ii) occupy land exceeding 50 Sq. meters either himself or through any other member of his family.

Explanation.—For the purpose of this clause family includes husband, wife minor son, unmarried daughter or any relation by blood wholly dependent on the landless person.”

(iv) after clause (d) the following clause shall be inserted, namely :—

“(d-1) ‘Occupy’ means occupation of Government Land in urban area for residential purpose.”

3. *Amendment of Section 3.*—In Section 3 of the Principal Act,—

(i) for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) The Authorised Officer may either settle the land in actual occupation of the landless person not exceeding 50 Sq. Meters in leasehold rights in his favour or settle in leasehold right in his favour any other land upto 50 Sqr. meters,” ;

(ii) after sub-section (3), the following sub-section shall be inserted, namely :—

(4) If the landless person to whom the leasehold rights have accrued in respect of any land under this Act, transfers such land in contravention of the provisions of sub-section (3), the following consequences shall ensue, namely :—

- (i) the lease shall stand cancelled on the date of such transfer ;
- (ii) such transfer shall be null and void ;
- (iii) no leasehold rights shall accrue to the transferee in respect of such land”.

4. *Insertion of new section 3-A.*—After section 3 of the principal Act, the following Section shall be inserted, namely :—

“3-A. *Act to apply to the land vested in the Municipal Corporation or Municipal Council.*—Notwithstanding anything contained in any law for the time being in force,—

(i) if a Municipal Corporation or Municipal Council by resolution decides to implement the provisions of this Act in respect of any land vested in it under the law under which it is constituted, the provisions of this Act shall apply mutatis mutandis in respect of such land ;

(ii) the authority to settle such land shall vest in the authorised officer.”

5. *Insertion of new section 4-A.*—After Section 4 of the principal Act, the following Section shall be inserted, namely :—

“4-A. The Collector may, at any time, on his own motion or on application made by any party interested, for the purpose of satisfying himself as to the legality or propriety of any order passed by or as to the regularity of any proceeding before the authorised officer, call for and examine record of any case disposed of by or pending before such officer and may pass such order in reference thereto as he thinks fit :

Provided that—

(i) no such application shall be entertained unless presented within thirty days from the date of the order ;

(ii) no order shall be varied reversed in revision unless notice has been served on the party interested and the opportunity given to him of being heard ”

6. *Penalties.—Substitution of new section for section 5.*—For Section 5 of the principal Act, the following Section shall be substituted, namely :—

“5. Any person who—

(i) wrongfully dispossesses or attempts to dispossess an occupier of a dwelling house ; or

(ii) recovers or attempts to recover rent in any manner from an occupier of dwelling house, shall be punished with rigorous imprisonment which shall not be less than three months but which may extend to three years and with fine which shall not be less than five hundred rupees but which may extend to one hundred rupees.”

7. *Amendments made by sections 3 to 6 to have retrospective effect.*—The amendments made by Sections 3 to 6 shall be deemed to have formed part of the principal Act, from the commencement thereof.

8. *Repeal.*—The Madhya Pradesh Nāgariya Ksheto Ke Bhoomihin Vyakti (Pattadhriti Adhikaion Ka Pradan Kiya Jana) Sanshodhan Adhyadesh, 1984 (No. 7 of 1984) is hereby repealed.

THE MADHYA PRADESH LAND REVENUE CODE (AMENDMENT) ACT, 1984

The following Act received the assent of the Governor on the 1st December, 1984; and was published in the *Madhya Pradesh Gazette (Ext.)* dated the 13th December 1984.

MADHYA PRADESH ACT NO. 53 OF 1984

An Act further to amend the Madhya Pradesh Land Revenue Code, 1959.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh Land Revenue Code (Amendment) Act, 1984.**

2. *Amendment of section 22.*—For sub-section (1) of section 22 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 12th December, 1983, namely :—

“(1) The Collector may place one or more Assistant Collector or Deputy Collectors in-charge of a sub-division of a district or in-charge of two or more sub-divisions of a district.”

THE MADHYA PRADESH CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE, 1984

Published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 31st December 1984.

MADHYA PRADESH ORDINANCE NO. 21 OF 1984

Promulgated by the Governor in the Thirty-fifth Year of the Republic of India.

An ordinance further to amend the Madhya Pradesh Co-operative Societies Act, 1960.

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance :—

1. *Short title.*—This Ordinance may be called the **Madhya Pradesh Co-operative Societies (Amendment) Ordinance, 1984.**

2. *Madhya Pradesh Act No. 17 of 1961 to be temporarily amended.*—During the period of operation of this Ordinance the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 49.*—In sub-section (7-B) of section 49 of the Principal Act, for the figures, letters and words “31st December, 1984”, the figures, letters and words “30th June, 1985” shall be substituted.

K. M. CHANDY,

Governor,

Madhya Pradesh.

Bhopal :

Dated the 30th December, 1984

Published in the *Madhya Pradesh Gazette*, (Ext.), Part 4, (Ga),
dated January 11, 1985.

Bhopal, the 15th October, 1984.

No. 17(E)-102,75-B-XXI.—In exercise of the powers conferred by sub-section (1) of Section 8 of the Hindu Marriage Act, 1955 (No. XXV of 1955), the State Government hereby makes the following rules for the registration of Hindu Marriages, namely :—

RULES

1. These rules may be called the **Madhya Pradesh Hindu Marriage Registration Rules, 1984.**

2. In these rules unless the context otherwise requires,—

- (a) "Act" means the Hindu Marriage Act, 1955 (No. XXV of 1955);
- (b) "Form" means a form appended to these rules;
- (c) "Marriage" means the Hindu marriage solemnised in accordance with the provisions of the Act;

(d) "Registrar" meant the Collector of the district in which the marriage is solemnised and in the event of the office of Collector becoming vacant or in his absence for whatever reason, any officer who succeeds temporarily to the executive administration of the district, whether of the rank of Collector or not;

(e) "Section" means a section of the Act.

3. (1) Every Registrar shall maintain the Hindu Marriage Register which shall be in the form of a paste book, consisting of blank butts serially numbered.

(2) The Registrar shall certify under his signature, on the title page of every blank register maintained under sub-rule (1) of the number of pages actually contained in such register and shall also note the date on which the registered was opened by him.

(3) The register maintained under sub-rule (1) shall be numbered serially beginning with the figure "1".

4. (1) A party to a Hindu marriage which has been solemnised may apply to the Registrar in form 'A' for registration of marriage.

(2) Such application shall also bear the signature of the officiating priest, if any,

Explanation.—For the purposes of this rule, registration of marriage is not obligatory and non-registration will not invalidate the marriage in any manner.

5. A fee of rupees five for registration of marriage shall be credited to the Government under the head of account..... "065-other Administrative service-A Administration of justice a-Services and Service Fees-vi-Miscellaneous fees" in Government treasury through a challan and a copy of challan shall be attached to the application.

6. (1) When an application for registration of a Hindu Marriage is presented before the Registrar by a party to the marriage the Registrar shall, subject to the provisions of rule 7 and except when both the parties to the marriage appear before him personally and are identified to his satisfaction, give notice of the application in form 'B' to the other party to the marriage by registered post and make such enquiry of a summary character as he thinks fit regarding the marriage.

(2) On being satisfied about the fact of marriage, the Registrar shall register the marriage and the application, in a register maintained in Form C and shall file an application in the Hindu marriage Register by pasting it on the first blank but available in his current register. The application shall be endorsed by the Registrar with the following endorsement on the reverse thereof:—

"The application alongwith a copy of challan was received by me on 19..... and the application is filed at serial No..... of 19....., on page..... of volume..... of the Register of Hindu Marriages, maintained under the Hindu Marriage Act, 1955 (No XXV of 1955).

Date.....19.....

(Signature)

Registrar of Hindu Marriages.

7. (1) If any application made to the Registrar under rule 4 is not accompanied by a copy of challan or is defective in any respect, the Registrar shall refuse to entertain the application unless the applicant deposit the said fee through challan and produces as copy of it for proof or remedies the defect, as the case may be, within such time as may be specified by him.

(2) If the Registrar to whom such application is made, has no jurisdiction to entertain the same, he shall send the application to the Registrar having such jurisdiction and inform the persons making the application accordingly.

(3) If the notice referred to in sub-rule (1) of rule 6 cannot be served or if the Registrar is not satisfied about the identity of the parties or about the fact of marriage, he shall by an order in writing, refuse to register the marriage.

8. (1) Any person aggrieved by the order refusing to register a marriage may, within thirty days from the date of the order, appeal to the Commissioner concerned.

(2) The appellate authority shall peruse the memorandum of appeal and register the same and fix a date for hearing of appeal of which notice shall be issued to the appellant and to the opposite party as also to the officiating priest and intimation of lodgement of appeal shall also be sent in writing to the Registrar alongwith a requisition for concerned record.

(3) On the date fixed for hearing of the appeal or on such other date to which the hearing may be adjourned, the appellate authority shall peruse the record and afford an opportunity to the parties and to the officiating priest of being heard in person or through their legal practitioner. The appellate authority may in his discretion make such further enquiry and take such further evidence as he may deem fit and thereafter decide the appeal. A true copy or order in appeal shall be sent to the Registrar alongwith the record of the case for information and compliance.

(4) If the appellate authority directs making of entry in the Hindu Marriage Register, the Registrar shall make the necessary entry. The Registrar shall, in all such cases, note the operative portion of the appellate order in the Hindu Marriage Register.

(5) True copies of order passed in appeal shall be furnished to any person applying for the same on payment of rupees five as minimum copying charges.

9. (1) Blank forms of application shall, on request, be supplied by the Registrar free of charge to the parties to a marriage.

(2) The Registrar may also supply free of charge to any priest such number of blank forms, as he may deem reasonable provided that such priest undertakes to render an account of the forms, when he requests for further supply of such forms.

10. Certified copy of extracts from the register in respect of marriage shall be furnished to any person applying for the same on payment of rupees five as minimum copying charges.

11. (1) The Registrar or the Commissioner, as the case may be, shall pass the receipt for the amount received by him as copying charges in form 'D'.

(2) The amount so received shall be credited to the Government under the head of account "065-Other Administrative service-A-Administration of justice-C-other receipts-iv-miscellaneous".

12. The Registrar may delegate all or any of its powers under these rules to the Additional Collector.

13. The Madhya Pradesh Hindu Marriage Registration Rules, 1956, are hereby repealed :

Provided that anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.

FORM A

[See Rule 4 (1)]

To

The Registrar of Hindu Marriages,

Place... ..

Subject.—Application for entry of marriage in Hindu Marriage Register.

Sir,

I, ... son/daughter of.....
age... .. occupation (If any)... .. address
... .. hereby apply for entering the fact
of my marriage in the Hindu Marriage Register maintained in your office
and submit the following particulars, namely —

(1) Date of Marriage.

(2) Place of marriage (with sufficient particulars to locate the place).

(3) (a) Full name of bridegroom.

(b) Full name of his father.

(c) Date of birth and age.

(d) Usual place of residence.

(e) Address.

(f) Status of the bridegroom at the time of marriage whether unmarried/widower/Divorce.

(4) (a) Full name of the bride,

(b) Full name of her father.

(c) Date of birth and age.

(d) Usual place of residence.

(e) Address.

(f) Status of the bride at the time of marriage whether unmarried/widow/Divorce.

(5) (a) Full name of the Officiating priest (in case marriage is performed by a priest).

(b) His age.

(c) Usual place of residence.

(d) Address.

(e) Signature of the officiating priest with date.

2. The requisite fee of Rs. 5 (Five rupees) has been credited into Government Treasury at (place).. on... ..copy or related challan is annexed hereto.

Signature of Applicant/Applicants.

VERIFICATION

I,... .. do hereby verify that the particulars of the marriage given above are true to the best of my knowledge and are believed by me to be true and that no part of the application is false.

Signed and verified this.....day of..... (month and year) at place.. ..

Signature of applicant/applicants

FORM B

Form of notice

(See Rule 6 (1))

Sir... ..
(mention full address)

Whereas, an application (copy enclosed) for registration of marriage has been presented to the undersigned under sub-rule (1) of rule 4 of the Madhya Pradesh Hindu Marriage Registration Rules, 1984, by... .. son/daughter of... .. resident of tahsil... .. district... .. and the said application had been fixed for... ..for consideration.

You are hereby noticed to intimate to the undersigned within..... days of the receipt of this notice whether you admit the correctness of the particulars mentioned in the aforesaid application and whether you have any objection to the fact of the marriage being entered in Hindu marriage register maintained, under section 8 of the Hindu Marriage Act, 1955 (No. XXV of 1955).

If no objection is received within the aforesaid period it will be presumed that you have no objection to the registration of the marriage. You may appear in person on.....failing which proceedings are liable to be decided in your absence.

Date.. .. Registrar of Marriages.

FORM C

[See Rules 6 (2)]

Register under rule 6(2) of Madhya Pradesh Hindu Marriage Registration Rules, 1984

(omitted)

FORM D

(See Rule 11)

Receipt for copying charges under rule 11 (1) of the Madhya Pradesh Hindu Marriage Registration Rules, 1984.

Counter foll		Receipt	
Serial No...	Date ..	Serial No..	Date... ..
Received from Shri/Smt.		Received from Shri/Smt.....	
Rs.. ..	(in words)...	Rs... ..	(in words)...
as copying charges..		as copying charges..	

Signature

Signature.

THE MADHYA PRADESH PROTECTION OF ABORIGINAL (INTEREST IN TREES) AMENDMENT ACT, 1984.

The following Act Received the assent of the Governor on 27th November, 1984, and was published in the "*Madhya Pradesh Gazette*," (Ext.), dated the 28th November, 1984.

MADHYA PRADESH ACT NO. 52 OF 1984

An Act further to amend the Madhya Pradesh Protection of Aboriginal Tribes (Interest in Trees) Act, 1956.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Madhya Pradesh Protection of Aboriginal Tribes (Interest in Trees) Amendment Act, 1984.**

(2) It shall come into force on such date as the State Government may, by notification, appoint

2. *Amendment of section 2.*—For clause (i) of section 2 of the Madhya Pradesh Protection of Aboriginal Tribes (Interest in Trees) Act, 1956 (No. 11 of 1956), hereinafter referred to as the Principal Act), the following clause shall be substituted, namely :—

"(i) 'Collector' means the Collector of the district concerned and includes an Additional Collector of such district and any officer empowered by the State Government, by notification, to exercise or perform such of the powers and functions of the Collector under this Act as may be specified in such notification."

3. *Amendment of section 3.*—In Section 3 of the Principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1-A) A tenure-holder belonging to an Aboriginal Tribe intending to seek permission under sub-section (1) shall make an application to the Collector in such form as may be prescribed."

(b) to sub-section (2), the following proviso shall be added, namely :—

"Provided that no such permission may be granted in a year for sale of timber of the value exceeding five thousand rupees unless the Collector thinks that sale of there of value exceeding the said limit is necessary to meet urgent expenses of such a member of the aboriginal tribe."

(c) after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) Where permission is granted under sub-section (2) the cutting

transportation and sale of specified trees shall be done by such officer of the Forest Department of the Government and in such manner as may be prescribed.

(4) The amount of consideration payable to the tenure holder shall be deposited in a new Bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (No. 5 of 1970), or the Banking Companies (Acquisition and Transfer of Undertakings), Act, 1980 (No. 40 of 1980) or Co-operative Bank registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) in a joint account of the Collector and the tenure holder to be operated jointly by both of them.

(5) It shall be the endeavour of the Collector to protect the tenure holder from exploitation by ensuring proper utilisation of the deposited amount to the best of his interest and for this purpose the Collector may exercise such check on withdrawal therefrom as he may deem fit."

4. *Insertion of new section 10.*—After section 9 of the Principal Act, the following section shall be inserted, namely :—

"10. *Power to make rules.*—(1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(a) the form in which the application shall be made under sub-section (1-a) of section 3 ;

(b) the officers by whom and the manner in which cutting transportation or other operations shall be carried out under sub-section (3) of section 3 ;

(c) any other matter which is required to be or may be prescribed or in respect of which the rules may be made under this Act ;

(3) All rules made under this Act shall be laid on the table of the Legislative Assembly."

THE MADHYA PRADESH ACCOMMODATION CONTROL (AMENDMENT) ORDINANCE 1985.

Published in the *Madhya Pradesh Gazette*, (Ext.), dated the 16th January 1985.

MADHYA PRADESH ORDINANCE NO. 1 OF 1985

Promulgated by the Governor in the Thirty-fifth Year of the Republic of India.

An Ordinance further to amend the Madhya Pradesh Accommodation Control Act, 1961.

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance :—

1. *Short title.*—This Ordinance may be called the Madhya Pradesh Accommodation Control (Amendment) Ordinance, 1985.

2. *Madhya Pradesh Act No. 41 of 1961 to be temporarily amended.*—During the period of operation of this Ordinance, the Madhya Pradesh Accommodation Control Act, 1961 (No. 41 of 1961) (hereinafter referred to as the Principal Act), shall have effect subject to the amendments specified in sections 3 to 9.

3. *Amendment of long title.*—In Chapter III of the Principal Act, before section 12, the following section shall be inserted, namely :—

“11 A. *Certain provisions not to apply to certain categories of landlords.* The provisions of this Chapter so far as they relate to matter specially provided in Chapter III-A shall not apply to the landlord defined in section 23-J.”.

5. *Amendment of section 12.*—In section 12 of the Principal Act,—

(i) after clause (d) of sub-section (1), the following clauses shall be inserted, namely :—

“(e) that the accommodation let for residential purposes is required bona-fide by the landlord for occupation as a residence for himself or for any member of his family, if he is the owner thereof or for any person for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable residential accommodation of his own in his occupation in the city or town concerned ;

(f) that the accommodation let for non-residential purposes is required bona-fide by the landlord for the purpose of continuing or starting his business or that of any of his major sons or unmarried daughters if he is the owner thereof or of any person for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable non-residential accommodation of his own in his occupation in the city or town concerned ;”;

(ii) after sub-section (3) the following sub-sections shall be inserted, namely :—

“(4) where a landlord has acquired any accommodation by transfer, no suit for the eviction of tenant shall be maintainable under sub-section (1) on the ground specified in clause (e) or clause (f) thereof, unless a period of one year has elapsed from the date of the acquisition.

(5) Where an order for the eviction of a tenant is made on the ground specified in clause (e) of sub-section (1), the landlord shall not be entitled to obtain possession thereof before the expiration of two months from the date of the order.

(6) Where an order for the eviction of a tenant is made on the ground specified in clause (f) of sub-section (1), the landlord shall not be entitled to obtain possession thereof—

(a) before the expiration of a period of two months from the date of the order ; and

(b) if the accommodation is situated in cities of Gwalior (including Lashkar and Murar), Indore, Ujjain, Ratlam, Bhopal, Jabalpur, Raipur, Durg or such other towns or cities specified by the State Government by a notification in that behalf, unless the landlord pays to the tenant such amount by way of compensation as may be equal to—

(i) double the amount of the annual standard rent of the accommodation in the following cases, namely :—

(a) where the accommodation has, for a period of ten years imme-

diately preceding the date on which the landlord files a suit for possession thereof, been used for business purposes or any other purpose along with such purposes, by the tenant who is being evicted ;

(b) where during the aforesaid period of ten years, the tenant carrying on any business in the accommodation, has left it and the tenant immediately succeeding has acquired the business of his predecessor either through transfer or inheritance ;

(ii) the amount of the annual standard rent in other cases."

6. *Insertion of new section 17.*—After section 16 of the Principal Act, the following section shall be inserted, namely ;—

"17. *Recovery of possession for occupation and re-entry* — (1) Where a landlord recovers possession of any accommodation from the tenant in pursuance of an order made under clause (e) or clause (f) of sub-section (1) of section 12 the landlord shall not, except with the permission of the Rent Controlling Authority obtained in the prescribed manner, re-let the whole or any part of the accommodation within two years from the date of obtaining such possession, and in granting such permission, the Rent Controlling Authority may direct the landlord to put such evicted tenant in possession of the accommodation.

(2) Where a landlord recovers possession of any accommodation as aforesaid and the accommodation is not occupied by the landlord if he is the owner thereof, or by the person for whose benefit the accommodation is held, within two months of obtaining such possession, or the accommodation having been so occupied is, at any time within two years from the date of obtaining possession re-let to any person other than the evictee tenant without obtaining the permission of the Rent Controlling Authority under sub-section (1) or the possession of such accommodation is transferred to another person for reasons which do not appear to the Rent Controlling Authority to be bona-fide, the Rent Controlling Authority may, on an application made to it in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the accommodation or to pay him such compensation as the Rent Controlling Authority thinks fit.

(3) Where the landlord makes any payment to the tenant by way of compensation under sub-section (7) of section 12, the evicted tenant shall not be liable refund the same to the landlord on being put in possession of the accommodation under sub-section (1) or sub-section (2)."

7. *Amendment of section 23-D.*—For sub-section (3) of section 23-D of the Principal Act, the following sub-section shall be substituted, namely :—

"(3) In respect of an application by a land-lord it shall be presumed, unless the contrary is proved, the requirement by the land-lord with reference to clause (a) or clause (b), as the case may be of section 23-A is "bona-fied".

8. *Insertion of new section 23-J.*—After section 23-I of Chapter III-A of the Principal Act, the following section shall be inserted, namely :—

"23-J. *Definition of 'landlord' for the purposes of Chapter III-A.*—For the purposes of this Chapter 'land-lord' means a land-lord who is,—

(i) a retired servant of any Government including a retired member of Defence Services ; or

- (ii) a retired servant of a company owned or controlled either by the Central or any State Government ; or
- (iii) a widow or a divorced wife ; or
- (iv) physically handicapped person ; or
- (v) a servant of any Government including a member of defence services who according to his service conditions, is not entitled to Government accommodation on his posting to a place where he owns a house or is entitled to such accommodation only on payment of a penal rent on his posting to such a place."

9. *Amendment of section 43.*—After sub-section (3) of section 43 of the Principal Act, the following sub-section shall be inserted, namely :—

"(3-a) If any land-lord re-lets or transfers the whole or any part of any accommodation in contravention of the provisions of sub-section (1) or sub-section (2) of section 17, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, which may extend to one thousand rupees, or with both."

10. *Transfer of pending application to civil court.*—An application filed by the landlord, other than that defined in section 23-J to evict the tenant exclusively on the ground of "bona-fide" requirement of accommodation under section 23-A of the Principal Act before the commencement of this Ordinance and pending on the date of such commencement before the Rent Controlling Authority shall on such commencement stand transferred to a civil court of competent jurisdiction and such court shall proceed to dispose of the same in accordance with the provisions of Chapter III as if it were a plaint.

BHOPAL :

Dated, the 15th January 1985.

K. M. CHANDY

Governor,
Madhya Pradesh

THE MADHYA PRADESH CO-OPERATIVE SOCIETIES (AMENDMENT AND VALIDATION) ORDINANCE, 1985.

Published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 15th February, 1985.

MADHYA PRADESH ORDINANCE NO. 5 OF 1985

Promulgated by the Governor in the Thirty-Sixth Year of Republic of India.

An Ordinance further to amend the Madhya Pradesh Co-operative Societies Act, 1960 and to validate the nominations of officers for performing the duties of the Returning Officer and anything done or any action taken by such officers.

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render in necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance :—

1. *Short title.*—The Ordinance may be called the *Madhya Pradesh Co-operative Societies (Amendment and Validation) Ordinance, 1985.*

2. *Madhya Pradesh Act No. 17 of 1961 to be temporarily amended.*—During the period of operation of this ordinance, the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), (hereinafter referred to as the Principal Act), shall have effect subject to the amendments specified in Sections 3 and 4.

3. *Amendment of section 2.*—In Section 2 of the Principal Act after clause (Y), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st January, 1983, namely :—

“(Y-i) “Returning Officer” means an officer appointed by the Registrar by general or special order for performing the duties of a Returning Officer under this Act or the rules made thereunder and includes an officer subordinate to the Returning Officer nominated in writing by him to perform the duties of Returning Officer;”.

4. *Amendment of Section 49.*—In Section 49 of the Principal Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st January, 1983, namely :—

“(1A) The election of members of the Committee and delegates, if any, for representing the society in any other society shall be conducted by the Returning Officer.”.

5. *Validation*—Notwithstanding anything contained in any judgment, decree or order of a Court, all things done, proceedings and actions taken and orders passed by the officers nominated by the Returning Officers under clause (Y-i) of Section 2 of the Principal Act as inserted by Section 3 of this Ordinance shall be and shall be deemed always to have been validly done, taken or passed as if the said officers were validly nominated under the said clause before such things were done, proceedings and actions were taken and orders were passed and the validity of such thing, proceeding, action or order shall not be called into question in any Court of Law or before any other authority whatsoever merely on the ground that their nominations were made without the enabling provisions in this behalf in the Principal Act.

K. M. CHANDY
Governor
Madhya Pradesh

Dated the 14th February 1985.

**THE MADHYA PRADESH KRISHI UPJ MANDI (SANSHODHAN)
ADHYADESH, 1985.**

Published in the *Madhya Pradesh Gazette*, (Ext.), dated the 15th February, 1985.

MADHYA PRADESH ORDINANCE NO. 6 OF 1985.

Promulgated by the Governor in the Thirty Sixth Year of the Republic of India.

An Ordinance further to amend the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972.

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefor, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance :—

1. *Short title.*—This Ordinance may be called the Madhya Pradesh Krishi Upaj Mandi (Sanshodhan) Adhyadesh, 1985.

2. *Madhya Pradesh Act No. 24 of 1972 to be temporarily amended.*—During the period of operation of this Ordinance, the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No. 24 of 1973) (hereinafter referred to as the Principal Act, shall have effect subject to amendment specified in Section 3

3. *Amendment of Section 11.*—In sub-section (5) of Section 11 of the Principal Act, for the words “for a period of five years and six months” the words “for a period of six years” shall be substituted.

K. M. CHANDY

BHOPAL :
Dated the 14th February 1985.

Governor
Madhya Pradesh

Published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 17th January 1985

**THE MADHYA PRADESH VINIRDISHTA BHRASHTA ACHARAN
NIVARAN (SANSHODHAN) ADHYADESH, 1985.**

MADHYA PRADESH ORDINANCE NO. 2 OF 1985

Promulgated by the Governor in the Thirty-fifth Year of the Republic of India.

An Ordinance further to amend the Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran Adhiniyam, 1982.

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance :—

1. *Short title.*—This Ordinance may be called the Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran (Sanshodhan) Adhyadesh, 1985.

2. *Madhya Pradesh Act, No. 36 of 1982 to be temporarily amended.*—During the period of operation of this Ordinance, the Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran Adhiniyam, 1982 (No. 36 of 1982) (hereinafter referred to as the Principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 30.*—To section 30 of the Principal Act, the following proviso shall be added at the end, namely :—

“Provided that nothing contained in clause (iii) shall apply to the cases covered thereby where the Collector of the district concerned certifies that in the public interest there is no objection to provide electrical and water supply connections to the buildings in the area of illegal diversion or illegal colonisations in existence immediately prior to the 30th October 1982.”.

BHOPAL
Dated, the 16th January, 1985

K. M. CHANDY,
Governor,
Madhya Pradesh.

THE MADHYA PRADESH APPROPRIATION (NO. 1) ACT, 1985.

The following Act received the assent of the Governor on the 29th March, 1985, and was published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 29th March, 1985.

MADHYA PRADESH ACT, NO. 1 OF 1985

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Madhya Pradesh for the services of the financial year 1984-85.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-Sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh Appropriation (No. 1) Act, 1985.**

(Text omitted)

THE MADHYA PRADESH ELECTRICITY DUTY (AMENDMENT AND VALIDATION) ACT, 1984.

The following Act received the assent of the Governor on the 17th November, 1984 ; and was published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 19th November, 1984.

MADHYA PRADESH ACT NO. 46 OF 1984

An Act further to amend the Madhya Pradesh Electricity Duty Act, 1949 and to validate certain actions taken thereunder.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth Year of Republic of India as follows :—

1. *Short title*—This Act may be called the **Madhya Pradesh Electricity Duty (Amendment and Validation) Act, 1984.**

2. *Amendment of Section 2.*—In Section 2 of the Madhya Pradesh Electricity Duty Act, 1949 (No. 10 of 1949) (hereinafter referred to as the Principal Act),—

(i) for clauses (a) and (a-i), the following clauses shall be substituted, namely :—

“(a) “Consumer” means any person who receives electrical energy sold or supplied by a distributor of electrical energy or a producer and includes a person receiving electrical energy in bulk for onward distribution ;

(a-i) “Distributor of electrical energy” means a person or a local authority who, as principal or agent, carries on the business of running an electrical undertaking under a licence granted under the Indian Electricity Act, 1910 (IX of 1910), and includes—

(i) a Government Department or the State Electricity Board constituted under Section 5 of the Electricity (Supply) Act, 1948 (LIV of 1948), running an electrical undertaking ; and

(ii) National Thermal Power Corporation or other organisation by whatever name called, which have been constituted under any Central or State Act for the time being in force for a like purpose ;”

(ii) for clause (c), the following clause shall be substituted, namely :—

“(c) “Electrical undertaking” means any undertaking engaged in the business of supplying electrical energy in any area in Madhya Pradesh, and includes an undertaking engaged in the business of supplying

electrical energy in bulk to another distributor of electrical energy ;”.

3. *Amendment of Section 3*—In Section 3 of the Principal Act,—

(a) in the table of rates of duty for item (5) the following items shall be substituted, namely :—

“(5) Electrical energy sold or supplied for consumption in a mine.	25 paise per unit of energy.
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(6) Electrical energy sold or supplied in bulk by a producer or distributor of electrical energy to another distributor of electrical energy excluding electrical energy supplied for his township or colony	2 paise per unit of energy.
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(7) Electrical energy sold or supplied for consumption in premises and for purpose not covered under items (1) to (6) above.	6.5 paise per unit of energy upto 50 units of energy sold or supplied in a month.
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7 paise per unit for each additional unit sold or supplied in a month in excess of 50 units but not in excess of 150 units of energy

12 paise per unit for each additional unit sold or supplied in a month in excess of 150 units of energy”;

(b) in the Explanation,—

(i) for clause (b), the following clause shall be substituted, namely :—

“(b) premises used for business, trade, commercial purposes or for purposes of professional pursuits” shall include the premises used for the purposes of industries which do not require raw materials for carrying on the industries but which are carried on for rendering services such as flour mill, repair workshop and the like and are not registered as factories under the Factories Act, 1948 (No. 63 of 1948) ;

(ii) for clause (c), the following clause and Note shall be substituted and shall be deemed to have been substituted with effect from 1st October, 1978, namely :—

“(c) ‘Factory’ means a factory registered under the Factories Act, 1948 (No. 63 of 1948).

Note.—For the purpose of this section the date of issue of the Factory Licence or the date of commencement of production as certified by the Director of Industries or his authorised representative, whichever is later, shall be deemed to be the date from which Factory is registered.”.

(iii) after clause (c), the following clause shall be inserted, namely :—

“(d) ‘Mine’ means a mine to which the Mines Act, 1952 (No. 35 of 1952) applies and includes the premises or machinery situated in or

adjacent to a mine and used for crushing, processing treating or transporting the ore.”.

4. *Amendment of Section 3-A.*—Clause (vi) of Section 3-A of the Principal Act. shall be omitted

5. *Validation* —(1) Notwithstanding anything contained in any Judgment, decree or order of any court the electricity duty imposed and recovered or purported to have been imposed or recovered in pursuance of item (ii) of clause (b) of Section 3 of this Act shall, for all purposes be deemed to be and to have always been validly imposed and recovered as if clause (c) of the Explanation to Section 3 of the Principal Act as amended by Section 3 of this Act were in force at all material times when such electricity duty was imposed or recovered and accordingly—

(a) all acts, proceedings or things done or taken in connection with the imposition or recovery of such duty shall, for all purposes be deemed to be and to have always been validly done or taken in accordance with law ;

(b) any duty imposed and recoverable in pursuance of the amendment made by item (ii) of clause (b) of Section 3 of this Act for the period prior to the commencement of this Act may be recovered in the manner provided therefor ;

(c) no suit or other proceeding shall be maintained or continued in any court against the State Government or any person or authority whatsoever for the refund of any duty so paid or recovered ;

(d) no court shall enforce any decree or order directing the refund of any duty so paid.

(2) For the removal of doubt it is hereby declared that save as provided in sub-section (1) nothing in that sub-section shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of Principal Act, the imposition of electricity duty for any period ; or

(b) for claiming refund of the duty paid by him in excess under the Principal Act.

6. *Repeal.*—The Madhya Pradesh Electricity Duty (Amendment and Validation) Ordinance, 1984 (No. 25 of 1984) is hereby repealed.

Published in the *Maharashtra Pradesh Gazette, (Ext.)*, Part 4(Ga), dated 24th February, 1985.

DEPARTMENT OF MINERAL RESOURCES

No. 2380-XII.—(*Bhopal, the 24th April 1984*).—In exercise of the powers conferred by Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (No. 67 of 1957) the State Government hereby makes the following amendment in the *Madhya Pradesh Minor Minerals Rules, 1961*, namely —

AMENDMENTS

In the said rules, in rule 25,—

(a) In sub-rule (i) for clause (A) the following clause shall be substituted, namely :—

(a) The lessee shall during the subsistence of lease pay to the Collector royalty in respect of minor mineral/minerals despatched from the leased area during a month by him on or before the 20th day of every such month in the district treasury at the rate for the time being specified in the First Schedule”.

(b) for sub-rule (III) the following sub-rule shall be substituted, namely :—

“(iii) The lessee shall also pay for every year except for the first year of the lease yearly deed rent at the rates specified in the Second Schedule in advance for the whole year on or before the 20th day of the first month of ensuing year and if the lease permits the working of more than one minor mineral in the same area the State Government may charge separate deed rent in respect of each minerals :

Provided that the mining of one minor mineral does not involve the mining of other minor mineral, provided further that the lessee shall be liable to pay the deed rent on the royalty in respect of each minor mineral whichever is higher in amount but not the both.”

(c) after sub-rule (viii), the following sub-rule shall be inserted, namely :—

“(viii) (a) the lessee shall issue a transit pass in form accompany every earlier for every trip carrying minerals or product or products therefrom leased area. The transit pass shall be prepared in duplicate in book form. Original shall be given to driver of the carrier after making the necessary entries. The lessees shall obtain from the Collector/Additional Collector the transit pass book duly stamped and signed by the officer authorised by the Collector/Additional Collector. The Collector will keep proper account of receipt and issue of transit pass books.”

(2) (a) In form V (a) for paragraphs 2 and 3 the following paragraph shall be substituted, namely :

“2. The lessee/lessees shall as from the day of during the subsistence of lease pay to the Collector yearly deed rent of Rs. in advance calculated at the rate of Rs. per hectare on the area of the said lands determined on the basis of cadastral survey. The first payment of rent to be made on 19 for the ensuing year commencing from the said day of 19 to the day 19 calculated at the said yearly rate on rent and the subsequently to be made every year on the 20th day of the first month of year.

For and in respect of the rent so paid the lessee/lessees may during the period in respect of which the same is payable work and raise from or out of the said lands and sell, export, consume or otherwise dispose of such quantity of the said minerals as would at the rate hereinafter mentioned yield or pay for the year a royalty equal in amount to the said yearly rent but the said yearly rent as from the said day of shall always be paid whether such quantity shall in fact be extracted or not.

Subject to the provision of paragraph 2 the lessee/lessees shall during the subsistence of this lease, pay to the Collector, royalty in respect of any minerals/minerals removed or despatched from the leased area during a month by him/them or on before the 20th of ensuing month in the district treasury or sub-treasury at the rate for the time being prescribed in the first Schedule of Madhya Pradesh Minor Minerals Rules, 1961.”

(b) after paragraph, 4 the following paragraph shall be inserted, namely :—

"4-A The lessee shall issue a transit pass in Form-X to accompany every carrier for every trip carrying mineral of its product from leased area. The transit pass shall be prepared in duplicated, original shall be given to the driver of the carrier after making the necessary entries. The lessee shall obtain the transit pass book duly stamped and signed by the officer authorised by the Collector, from the Collector/Additional Collector of senior 1st scale."

(c) for paragraph 6, the following paragraph shall be substituted, namely :—

"6 In the event of royalty, deed rent, surface-rent of other dues which are payable under the terms of this agreement remain unpaid for more than 35 days after the due date the Collector/Additional Collector of senior I. A. S. Scale or any officer authorised by the Collector in this behalf may enter upto the leased area, stop quarrying operations; all or any of the quarry products or extraction made or payable property. The arrears of dues under these agreement shall be recoverable as an arrear of land revenue."

(3) after Form IX, the following Form shall be added, namely ;—

"FORM X
[See rule 25 (viii) (b)]
TRANSIT PASS BOOK
(omitted.)

THE MADHYA PRADESH CO-OPERATIVE SOCIETIES (AMENDMENT AND VALIDATION) ACT, 1985.

The following Act received the assent of the Governor on the 22nd April 1985; and was published in the "*Madhya Pradesh Gazette*", (Ext.), dated the 25th April, 1985.

MADHYA PRADESH ACT No. 3 of 1985.

An Act further to amend the Madhya Pradesh Co-operative Societies Act, 1960 and to validate the nominations of officers for performing the duties of the Returning Officer and anything done or any action taken by such officers.

Be it enacted by the Madhya Pradesh Legislature in the Thirty sixth Year of the Republic of India as follows :—

1. *Short title* —This Act may be called the **Madhya Pradesh Co-operative Societies (Amendment and Validation) Act, 1985.**

2. *Amendment of section 2.*—In section 2 of the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), (hereinafter referred to as the Principal Act), after clause (Y), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st January 1983, namely :—

"(Y-i) "Returning Officer" means an officer appointed by the Registrar by general or special order for performing the duties of a Returning Officer under this Act or the rules made thereunder and includes an officer subordinate to the Returning Officer nominated in writing by him to perform the duties of Returning Officer;"

3. *Amendment of section 49.*—In section 49 of the Principal Act,—

(i) after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st January 1983, namely :—

"(1A) The election of members of the Committee and delegates,

if any, for representing the society in any other society shall be conducted by the Returning Officer.”;

(ii) in sub-section (7-B) for the figures, letters and words “31st December, 1984”, the figures, letters and words “30th June, 1985”, shall be substituted.

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of a court, all things done, proceedings and actions taken and orders passed by the officers nominated by the Returning Officers under clause (Y-i) of section 2 of the Principal Act as inserted by section 2 of this Act shall be and shall deemed always to have been validly done, taken or passed as if the said officers were validly nominated under the said clause before such things were done, proceedings, and action were taken and orders were passed and the validity of such thing proceeding action or order shall not be called into question in any court of law or before any other authority whatsoever merely on the ground that their nominations were made without the enabling provisions in this behalf in the Principal Act.

5. *Repeal*.—The Madhya Pradesh Co-operative Societies (Amendment) Ordinance, 1984 (No. 27 of 1984), and the Madhya Pradesh Co-operative Societies (Amendment and Validation) Ordinance, 1985 (No. 5 of 1985) are hereby repealed.

THE MADHYA PRADESH VINIRDISHTA BHRASHTA ACHARAN NIVARAN (SANSKODHAN) ADHINIYAM, 1985

The following Act received the assent of the Governor on the 22nd April, 1985; and was published in the *Madhya Pradesh Gazette*, (Ext.), dated the 26th April, 1985.

MADHYA PRADESH ACT NO. 4 OF 1985

An Act further to amend the Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran Adhiniyam, 1982.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title*.—This Act may be called the *Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran (Sanskodhan) Adhiniyam, 1984*.

2. *Amendment of section 30*.—To section 30 of the Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran Adhiniyam, 1982 (No. 36 of 1982), the following proviso shall be added, namely :—

“Provided that nothing contained in clause (iii) shall apply to the cases covered thereby where the Collector of the district concerned certifies that in the public interest there is no objection to provide electrical and water supply connections to the buildings if the area of illegal diversion or colonisation in existence immediately prior to the 30th October, 1982.”

3. *Repeal*.—The Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran (Sanskodhan) Adhyadesh, 1985 (No. 2 of 1985), is hereby repealed.

**THE MADHYA PRADESH LOKAYUKT EVAM UP-LOKAYUKT
(SANSHODHAN) ADHINIYAM, 1985**

The following Act received the assent of the Governor on the 22nd April, 1985 ; and was published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 26th April, 1985.

MADHYA PRADESH ACT NO. 5 OF 1985

An Act further to amend the Madhya Pradesh Lokayukt Evam Up-lokayukt Adhiniyam, 1981.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh Lokayukt Evam Up-Lokayukt (Sanshodhan) Adhiniyam, 1985.**

2. *Amendment of section 2.*—After item (v) of clause (g) of section 2 of the Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981 (No. 37 of 1981), the following item shall be inserted, namely :—

“(vi) (a) Up-Kulpati, Adhyacharya and Kul-Sachiva of the Indira Kala Sangit Vishwavidyalaya constituted under section 3 of the Indira Kala Sangit Vishwavidyalaya Act, 1956 (No. 19 of 1956) ;

(b) Kulpati and Registrar of Jawaharlal Nehru Krishi Vishwavidyalaya constituted under section 3 of the Jawaharlal Nehru Krishi Vishwavidyalaya Act, 1963 (No. 12 of 1963) ;

(c) Kulpati, Rector and Registrar of the Vishwavidyalaya constituted under section 5 of the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973 (No. 22 of 1973).”

THE MADHYA PRADESH KRISHI UPJ MANDI (SANSHODHAN) ADHINIYAM, 1985.

The following Act received the assent of the Governor on the 23rd April 1985 ; and was published in the *Madhy Pradesh Gazette, (Ext.)*, dated the 26 April, 1985.

MADHYA PRADESH ACT NO. 6 OF 1985

An Act further to amend the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1985.**

2. *Amendment of section 11.*—In sub-section (5) of section 11 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No. 24 of 1973) for the words “for a period of five years and six months”, the words “for a period of six years” shall be substituted.

3. *Repeal.*—The Madhya Pradesh Krishi Upaj Mandi (Sanshodhan) Adhyadesh, 1985 (No. 6 of 1985) is hereby repealed.

**THE MADHYA PRADESH ACCOMMODATION CONTROL
(AMENDMENT) ACT, 1985**

The following Act received the assent of the Governor on the 22nd April, 1985 ; and was published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 27th April, 1985.

MADHYA PRADESH ACT NO. 7 OF 1985

An Act to further to amend the Madhya Pradesh Accommodation Control Act, 1961.

1. *Short title.*—This Act may be called the **Madhya Pradesh Accommodation Control (Amendment) Act, 1985.**

2. *Amendment of long title.*—In the long title of the Madhya Pradesh Accommodation Control Act, 1961 (No. 41 of 1961), (hereinafter referred to as the principal Act), for the words “landlords” the words “certain categories of landlords” shall be substituted.

3. *Insertion of new section 11-A.*—In Chapter III of the Principal Act, before section 12, the following section shall be inserted, namely :—

“11-A. *Certain provisions not to apply to certain categories of landlords.*—The provisions of this Chapter so far as they relate to matter specially provided in Chapter III-A shall not apply to the landlord defined in section 23-J”.

4. *Amendment of section 12.*—In section 12 of the Act—

(i) after clause (d) of sub-section (1), the following clause shall be inserted, namely :—

“(e) that the accommodation let for non-residential purposes is required bona-fide by the landlord for occupation as a residence for himself or for any member of his family, if he is the owner thereof or for any person for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable residential accommodation of his own in his occupation in the city or town concerned ;

(f) that the accommodation let for non-residential purpose is required bona-fide by the landlord for the purpose of continuing or starting his business or that the any of his major sons or unmarried daughters if he is the owner thereof or of any person for whose benefit the accommodation is held and that and that the landlord or such person has no other reasonably suitable non-residential accommodation of his own in his occupation in the city or town concerned.”

(ii) after sub-section (3) the following sub-sections shall be inserted, namely :—

“(4) Where a landlord has acquired any accommodation by transfer, no suit for the eviction of tenant shall be maintainable under sub-section (1) on the ground specified in clause (e) or clause (f) thereof, unless a period of one year has elapsed from the date of the acquisition.

(5) Where an order for the eviction of a tenant is made on the ground specified in clause (e) of sub-section (1), the landlord shall not entitled to obtain the possession thereof before the expiration of period of two months from the date of the order.

(6) Where an order for the eviction of a tenant is made on the ground specified in clause (f) of sub-section (1), the landlord shall not be entitled to obtain possession thereof—

(a) before the expiration of a period of two months from the date of the order and

(b) if the accommodation is situated in cities of Gwalior (including lashkar and Murar), Indore, Ujjain, Ratlam, Bhopal, Jabalpur, Raipur, Durg or such other towns or cities specified by the State Government by a notification in that behalf, unless the landlord pays to the tenant such amount by way of compensation as may be equal to—

(i) double the amount of the annual standard rent of the accommodations in the following cases, namely :—

(a) where the accommodation has, for a period of ten years immediately preceeding the date on which the landlord files a suit for possession thereof, been used for business purpose or for any other purpose along with such purposes, by the tenant who is being evicted ;

(b) where during the aforesaid period of ten years, the tenant carrying on any business in the accommodation has left it, and the tenant immediately succeeding has acquired the business of his predecessor either through transfer or inheritance ;

(ii) the amount of the annual standard rent in other cases.”

5 *Insertion of new section 17* —After section 16 of the Principal Act, the following section shall be inserted, namely :—

“17. *Recovery of possession for occupation and re-entry* —(1) Where a landlord recovers possession of any accommodation from the tenant in pursuance of an order made under clause (e) or clause (f) of sub-section (1) of section 12 the landlord shall not except with the permission of the Rent Controlling Authority obtained in the prescribed manner relet the whole or any part of the accommodation within two years from the date of obtaining such possession, and in granting such permission, the Rent Controlling Authority may direct the landlord to put such evicted tenant in possession of the accommodation.

(2) Where a landlord recovers possession of any accommodation as aforesaid and the accommodation is not occupied by the landlord if he is the owner thereof, or by the person for whose benefit the accommodation is held, with two months of obtaining such possession, or the accommodation having been so occupied is, at any time within two years from the date obtaining possession, relet to any person other than the evicted tenant without obtaining the permission of the Rent Controlling Authority under sub-section (1) or the possession of such accommodation is transferred to another person for reasons which do not appear to the Rent Controlling Authority to be bona fide, the Rent Controlling Authority may, on application made to it in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the accommodation or to pay him such compensation as the Rent Controlling Authority thinks fit.

(3) Where the landlord makes any payment to the tenant by way of compensation under sub-section (7) of section 12, the evicted tenant shall not be liable to refund the same to the landlord on being put in possession of the accommodation under sub-section (1) or sub-section (2).

6. *Amendment of section 23-D*.—For sub-section (3) of section 23-D of the Principal Act, the following sub-section shall be substituted, namely :—

“(3) In respect of an application by a landlord it shall be presumed, unless the contrary is proved, the requirement by the landlord with reference to clause (a) or clause (b), as the case may be, of section 23-A is bona fide.”

7. *Insertion of new section 23-J*.—After section 23-I of Chapter III-A of the Principal Act, the following section shall be inserted, namely :—

“23. *Definition of landlord for the purposes of Chapter III-A*.—For the purposes of this Chapter ‘landlord’ means a landlord who is—

- (i) a retired servant of any Government including a retired member of Defence Services ; or
- (ii) a retired servant of a company owned or controlled either by the Central or State Government ; or
- (iii) a widow or a divorced wife ; or
- (iv) physically handicapped person ; or
- (v) a servant of any Government including a member of defence services who, according to his service conditions, is not entitled to Government accommodation on his posting to a place where he owns a house or is entitled to such accommodation only on payment of a penal rent on his posting to such a place."

8. *Amendment of section 43.*—After sub-section (3) of Section 43 of the Principal Act, the following sub-section shall be inserted, namely ;—

"(3-a) If any landlord re-lets or transfers the whole or any part of any accommodation in contravention of the provisions of sub-section (1) or sub-section (2) of section 17, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, which may extend to one thousand rupees, or with both."

9. *Transfer of pending application to civil court.*—An application filed by the landlord, other than that defined in section 23-J to evict the tenant exclusively on the ground of "bona-fide" requirement of accommodation under section 23-A of the Principal Act before 16th January, 1985 and pending on such date before the Rent Controlling Authority shall stand transferred to a civil court of competent jurisdiction and such court shall proceed to dispose of the same in accordance with the provisions of Chapter III as if it were a plaint.

10. *Repeal*—The Madhya Pradesh Accommodation Control (Amendment) Ordinance, 1985 (No. 1 of 1985) is hereby repealed.

Published in the *Madhya Pradesh Gazette* Part IV, dated October 26, 1984.

NOTIFICATION

No. 2167-728-84-XVI-A.—In exercise of the powers conferred by sub-section (1) and clause (e) of sub-section (2) of Section 59 read with sub-section (2) of section 58 of the Madhya Pradesh Shops and Establishments Act, 1958 (No. 25 of 1958), the State Government makes the following further amendments to the Madhya Pradesh Shops and Establishments Rules, 1959, the same having been previously published as required by sub-section (3) of Section 59 of the said Act, namely :—

AMENDMENT

In the said rules—

(1) After rule 14, the following rules shall be inserted, namely :—

"14-A. *Appellate Authority and limitation.*—(1) The Divisional Assistant Commissioner of Labour shall be the Appellate Authority for the purposes of sub-section (2) of Section 58.

(2) The employee discharged dismissed or retrenched may prefer an appeal to the Appellate Authority within a period of one year from the date of the communication of the order of discharge, dismissal or retrenchment, as the case may be :

Provided that the appeal may be entertained even after the expiry of the said period of one year if the employee satisfies the Appellate Authority

urity that he has sufficient reason for not preferring an appeal within the said period.

(3) On receiving the appeal, the Appellate Authority shall give a notice in Form K-1 to the non-appellant (employer) and in Form K-2 to the appellant (employee) concerned by registered post acknowledgement due.

(4) After perusing the record and after giving an opportunity to the parties of being heard, the Appellate Authority shall decide the appeal. Reasons if brief for the decision shall be recorded in the appellate order.

(5) The appellate authority shall supply a copy of order passed by it in the appeal to the non-appellant (employer) as well as to the appellant (employee) concerned free of cost."

(2) After Form K, the following form shall be inserted, namely :—

"FORM K-1

[See sub-rule (3) of rule 14-A]

Notice to employer/non applicant under clause (b) of sub-section (2) of Section 58 of the Madhya Pradesh Shops and Establishments Act, 1958 (No. 25 of 1958)

Appeal No.
.....
Vs

..... Non-Appellant (employee)

Shri has submitted an appeal before me under clause (a) of sub-section (2) of Section 58 of the Madhya Pradesh Shops and Establishment Act, 1958 against the order of his discharge/dismissal/retrenchment No. dated A copy of appeal is enclosed herewith. The date of hearing of the appeal has been fixed on month 198. You are hereby required to appear personally or through your pleader or any person specially authorised to act on your behalf, before me to answer the claims. If you or any other person aforesaid do not appear on the said date, the case will be decided exparte.

You are also hereby informed to produce all the documents and witnesses which you want to prefer in support of your defence, by the said date of hearing.

Issued this day of under my hand and seal.

.....
Appellate Authority.

FORM K-2

[See sub-rule (3) of rule 14-A]

Notice to the appellant under clause (b) of sub-section (2) of Section 58 of the Madhya Pradesh Shops and Establishments Act, 1958 (No. 25 of 1958).

Appeal No.
.....
Vs

..... Non-appellant (employer)

The appeal filed by you against the order of discharge/dismissal/retrenchment No. dated has been fixed on day of 198 at a.m./p.m. You are hereby required to appear personally or through your pleader or any other person specially authorised to act on

your behalf before me to prove your claims. If you or any of your representatives aforesaid do not appear on the said date, the case will be decided *ex parte*.

You are also hereby informed to produce all witnesses and documents which you want to prefer in support of your claims by the said date of hearing.

Issued this.....day of.....under my hand and seal.

.....
Appellate Authority."

**THE BHOPAL GAS TRASADI (JANGAM SAMPATI KE NIKRAYON
KA SHOONYA GHOSHIT KIYA JANA), ADHINIYAM, 1985**

The following Act received the assent of the President on the 1st May, 1985 and was published in the *Madhya Pradesh Gazette, (Ext.)*, dated the 3rd May, 1985.

MADHYA PRADESH ACT NO. 8 OF 1985

An Act to declare certain transactions of sale of movable property entered into by certain persons under panic caused by leakage of injurious gas from Union Carbide Factory, Bhopal to be void

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bhopal Gas Trasadi (Jangam Sampati Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhiniyam, 1985.

(2) It shall be deemed to have come into force on the 24th day of January, 1985.

2. *Definitions.*—In this Act unless the context other requires,—
“affected area” means the area comprised within the limits of Municipal Corporation, Bhopal.

3. *Application to declare transaction of sale to be void.*—(1) Any person residing in the affected area who has under panic caused by leakage of injurious gas from Union Carbide Factory, Bhopal sold any of his movable property during the period 3rd December, 1984 to 24th December, 1984 to any person may apply to the competent authority to be appointed by the State Government which shall not be below the rank of Collector for declaring the transaction of sale to be void.

(2) Every application under sub-section (1) shall contain the following particulars, namely :—

- (i) name of the seller with address ;
- (ii) name of the purchaser with address ;
- (iii) details of movable property sold ;
- (iv) consideration received ;
- (v) date and place of sale ; and
- (vi) such other particulars may be required.

(3) The statements in the application shall be verified by the applicant in the manner required by law for the verification of plaints.

4. *Enquiry by competent authority.*—(1) The competent authority may on receipt of an application under section 3 make such preliminary enquiry as it may in the circumstances of the case deem fit to ascertain whether

the transaction of sale is of the nature specified in section 3 and on being satisfied that section 3 applies to such transaction; it shall after recording its opinion therefor, proceed to conduct an enquiry into such transaction in the manner hereinafter provided.

(2) The competent authority shall by notice served on the parties to the transactions of sale call upon them to place all relevant facts and documents before it at such place, on such date and at such time as may be specified in the notice.

(3) The Competent Authority shall at the place and at the date and time specified in the notice afford an opportunity to the parties of being heard in person and may, if necessary, examine all of the parties interested in the sale to elucidate information relevant to the sale.

5. *Setting aside sale and return of movable property or affording other relief.*—(1) If after the enquiry the competent authority is satisfied that—

(i) the transaction of sale is of the nature specified in section 3; and

(ii) the consideration paid in such transaction of sale was not adequate according to the market value of such property prevalent on the date of sale,

it shall declare such transaction to be void notwithstanding anything contained in any other law for the time being in force and shall,—

(a) pass an order to return the property sold on repayment of the amount of consideration by the seller;

(b) if the purchaser fails to return the property within fifteen days of the order passed under clause (a) or where in the opinion of the competent authority it is not feasible to return the property, pass order directing the purchaser to pay the difference of price under sub-section (2);

(c) pass such other consequential order as may be necessary.

(2) Where the purchaser fails to return the property or for any reason to be recorded in writing it is not possible to return the property to the seller, the competent authority shall fix the price of such property according to the market value of such property prevalent on the date of sale and order the purchaser to pay the difference, if any, between the price so fixed and the amount of consideration actually paid to the seller within a period of fifteen days.

(3) If the purchaser fails to pay the difference of price ordered to be paid under sub-section (2) within the period specified therein the same shall be recoverable as an arrear of land revenue and the amount so recovered shall be paid to the seller.

6. *Penalty.*—Whoever contravenes the provisions of section 5 shall, without prejudice to any action that may be taken by the competent authority under sub-section (3) of section 5, be punishable with imprisonment which may extend one year or with fine which may extend to one thousand rupees or with both.

7. *Appeal.*—Any person aggrieved by an order of the competent authority under section 5, may within a period of thirty days of passing of such order, appeal to such authority as may be appointed by the State Government in this behalf, in such form and manner and accompanied such fee as may be prescribed:

Provided that in computing the period aforesaid, time requisite for obtaining the copy of the order appealed against shall be excluded.

8. *Finality of order.*—Every order made by the appellate authority in appeal or any order of the competent authority shall, if no appeal is filed, be final and shall not be called in question in any court, tribunal or authority by way of appeal or revision or in any original suit application or execution proceeding.

9. *Bar of jurisdiction of civil court.*—No civil court shall have any jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the competent authority or the Appellate Authority.

10. *Enquiries and proceedings to be judicial proceedings.*—All enquiries and proceedings before the competent authority or the appellate authority shall be deemed to be judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code, 1860 (No. 45 of 1860) and for the purposes of section 196 thereof.

11. *Repeal.*—The Bhopal Gas Tragedy (Jangam Samapatti Ke Vikrayon Ka Shoenya Ghoshit Kiya Jana) Adhyadesh, 1985 (No. 4 of 1985), is hereby repealed.

THE PRISONERS (MADHYA PRADESH AMENDMENT) ACT, 1985

The following Act received the assent of the Governor on the 26th May, 1985; and was published in the "Madhya Pradesh Gazette" (Ext.), dated the 5th June, 1985.

MADHYA PRADESH ACT NO. 10 of 1985

An Act further to amend the prisoners Act, 1900 in its application to the State of Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Prisoners (Madhya Pradesh Amendment) Act, 1985.

2. *Amendment of Central Act No. 3 of 1900 in its application to the State of Madhya Pradesh.*—The Prisoner Act, 1900 (III of 1900) (hereinafter referred to as the Principal Act), shall in its application to the State of Madhya Pradesh, be amended in the manner hereinafter provided.

3. *Substituted of new Part VI-A.*—For Part VI-A of the principal Act, the following Part shall be substituted, namely:—

"PART VI-A—LEAVE AND EMERGENCY LEAVE TO PRISONERS

31-A. *Grant of leave to Prisoners.*—(1) Subject to the provisions to this part and to such conditions as may be prescribed, the State Government or any authority to which the State Government may delegate its powers in this behalf may grant leave to any prisoner who has been sentenced to a term of imprisonment of not less than three years, for a period not exceeding twenty one days in a year, excluding the time required for journeys to the first place of his visit immediately after departure from the prison and from the place of last visit to the prison back.

(2) The provisions of sub-section (1) shall not apply to a prisoner who has been classified as a habitual criminal for the purpose of the rules for the time being in force made under the Prisons Act, 1894 (IX of 1894) and who has more than three previous convictions.

(3) Leave shall not be admissible to a prisoner during a year under

sub-section (1)—

(i) for more than two occasions ;
 (ii) for a period of less than ten days ; and
 (iii) unless a period of three months has elapsed since the expiration of leave last availed of during the year and the commencement of the leave applied for.

(4) No Prisoner shall be granted leave under sub-section (1), unless,—

(a) he has at the time of the grant of leave served one-half of his sentence including remission, or a period of not less than two years of his sentence, including remission whichever is less ;

(b) he has not been punished for a prison offence under Section 46 of the Prisons Act, 1894 (IX of 1894) during twelve months preceeding the date of commencement of the leave applied for.

(5) The period of leave of a prisoner under sub-section (1) shall count towards the total period of his sentence.

(6) The authority directing the grant of leave to any prisoner under sub-section (1) may require him to enter into a bond with or without sureties for due observance of conditions specified in the direction.

(7) If any prisoner granted leave under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to penalty thereof.

(8) If a prisoner has violated the conditions of leave or bond, he shall not be entitled to leave under sub-section (1) during the remaining period of his sentence.

31 B. Power to grant leave to prisoners on grounds of emergency.—(1) Notwithstanding anything to the contrary contained in section 31-A or in any other law for the time being in force, the State Government or any authority to which the State Government may delegate its powers in this behalf, may sanction emergency leave to a prisoner who is entitled to grant of leave under Section 31-A for a period not exceeding fifteen days, excluding the time required for journey to the first place of his visit immediately after departure from the prison and from the place of last visit to the prison back, subject to such conditions as may be prescribed and may, at any time cancel the leave.

(2) Emergency leave under sub-section (1) may be granted to a prisoner in case of death of his or her spouse, son, daughter, father, mother, brother, sister, paternal or maternal grand father or grand mother or in case of his or her own marriage or the marriage of his or her son, daughter, brother and sister.

(3) The authority directing the grant of emergency leave to any prisoner under sub-section (1) may require him to enter into a bond with or without sureties for due observance of conditions specified in the direction.

(4) If any prisoner granted emergency leave under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to penalty thereof.

(5) No prisoner shall be granted emergency leave under sub-section

(1) if he has been punished for a prison offence under Section 46 of the Prisons Act 1894 (IX of 1894), during twelve months proceedings the date of commencement of the leave applied for.

(6) The leave under sub-section (1) cannot be claimed as a matter of right.

(7) The period of leave under sub-section (1) shall not count toward the total period of his sentence.

31-C (1) *Surrender by prisoner after the leave period.*—On the expiry of the period for which a prisoner was released on leave under sub-section (1) of Section 31-A or an emergency leave under sub-section (1) of Section 31-B, he shall surrender himself to the officer-in-charge of the prison from which he was released.

(2) If a prisoner does not surrender himself as required by sub-section (1), he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired of his portion sentence.

31-D *Penalty.*—Any prisoner who does not surrender himself as required by sub-section (1) of Section 31-C shall be liable upon conviction to be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

31-E *Power to make rule.*—(1) The State Government may make rules for carrying out the purposes of this part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) procedure to be followed in respect of the proceedings for grant of leave of emergency leave to prisoners ;

(b) the conditions for grant of leave or emergency leave to prisoners under sub-section (1) of Section 31-A, or under sub-section (1) of Section 31-B, respectively, conditions for the supervision during the period of such leave ;

(c) travelling allowances for prisoners during the period of leave ;

(d) restrictions on the movement of prisoners during the period of leave ; and

(e) cancellation of leave and emergency leave or forfeiture of bond in case of violation of conditions of leave."

Published in the *Madhya Pradesh Gazette*, Part 4 (ga), dated July 12, 1985

**HIGH COURT OF JUDICATURE AT NAGPUR
FOR THE VOLUME OF THE RULES OF THE HIGH COURT
OF JUDICATURE AT NAGPUR**

AMENDMENT NO. 13-1-14-1/38

(The amendment will come into force from the date of publication).

In Rule 4 Part II High Court Rules (Rules for proceedings under Article 226 of the Constitution of India).

1. Re-number the existing Rule 4 as Rule 4 (a)

2. Add the following as Rule 4 (b).—

"Where the petition is against the State Government or any of its officers and is accompanied by an application for ad-interim writ or stay order with a request for hearing it urgently, the petitioner shall supply a copy of the petition together with annexures and the application for interim relief, in advance to the Advocate General's office and file acknowledgment."

wledgement of the same. The application for interim relief will then be listed before the court with notice to the Advocate General”

In Rule 6 Part II High Court Rules

Insert the following second proviso under first proviso to rule 6 :—

“Provided further that all petitions after admission required to be heard finally by single bench shall be listed for orders on all interlocutory matters except for issuance of an interim writ or stay order, before the appropriate Single Bench.”

In Rule 7 Part II High Court Rules

Insert the words “together with annexures” between the words “petition” and “and”.

After amendment Rule 7 shall read as under :—

“Rule 7.—The petitioner shall deposit the necessary process fees within three days of such time as the court may order of the admission of the petition alongwith as many copies of the petition together with annexure and affidavit as there are opposite parties”.

In Rule 8 Part II High Court Rules

Insert the word “together with annexures” between the words “Petition” and “and”.

After amendment Rule 8 shall read as under :—

“Rule 8.—Copies of the petitions together with annexures and affidavits shall be served with the notice.”

In Rule 11 (a) Part II High Court Rules.

Insert the words “including annexures” between the words “thereof” and “upon”.

After amendment Rule 11 (a) shall read as under :—

“Rule 11 (a) —An answer to the rule nisi showing cause against such petition shall be made by filing in the registry a return duly supported by an affidavit and by serving a copy thereof including annexures upon the petitioner or his agent or Advocate atleast two days before the date of the return of the rule.”

In Rule 1 Part I Chapter X High Courts Rules relating to copies

Insert the following proviso at the end of Rule 1 :—

“Provided that no copy of the office notings or the reports not forming part of the judicial order-sheets made by the Registry office in the judicial record shall be given”.

In sub-rule (4) Rule 8 Part I Chapter V High Court Rules

(i) Insert the words “and/or Court of session” between the words “High Court” and “and if made”

(ii) Insert the following sentence at the end of sub-rule (4).

“A copy of order of the court of session, if any, shall be filed with the bail application”.

After amendment sub-rule (4) of rule 8 shall read as under :—

“Sub-Rule (4) of Rule 8. No petition for the grant of bail other than those referred to in sub-rule (3) above, shall be entertained, unless it contains an averment that a similar petition relating to the same subject matter has or has not been made to the High and/or court of session and if made, with what result.”

A copy of order of the court of session, if any, shall be filed with the bail application.

In Rule 11 Part I Chapter V High Court Rules

Insert the following words "the references for confirmation or death sentences and" at the beginning of Rule 11.

After amendment Rule 11 shall read as under :—

"Rule 11.—The references for confirmation of death sentences and appeals against a sentence of death are to have preference over all other cases. They should therefore be posted for hearing as soon as they are ready. The preparation of paper books in such cases should be expedited throughout."

In Rule I (d) Part I Chapter I, High Court Rules

Substitute the figure "Rs. 50,000" for the figure "Rs. 20,000" wherever it occurs in Rule I (d).

After amendment Rule I (d) shall read as under :—

"Rule I (d).—An appeal of a Civil nature under any act of the Central or State Legislature or First Appeals under the Code of Civil Procedure, the value of which does not exceed the sum of Rs 50,000 and any application or reference made under such Act, if such appeals, applications or reference is not otherwise expressly provided for.

Explanation—The value of a cross objection filled in any such appeal shall not be included in the value of the appeal.

However if the value of the cross-objection exceeds Rs. 50,000 the appeal as well as the cross objection shall both be heard by Division bench."

In Rule I (Q) Part I Chapter I High Court Rules

Insert the following as clause IV-A after clause IV in rule I (Q).

"A revision filed by a private party under section 397 of the Code of Criminal Procedure or suo motu revision entertained under section 401 of the Code of Criminal procedure against acquittal in respect of offences punishable with sentence of death or imprisonment for life and triable by court of session".

In Rule 5 Part I Chapter IV, High Court Rules.

Substitute the figure "382, 397 and 401" for the figures "419, 435 and 439" respectively in Rule 5.

After amendment Rule 5 shall read as under :—

"Rule 5.—Every petition of appeal under section 382 of the code of Criminal procedure and every petition asking for the exercise of the High Court's power under section, 397 or 401 of the same code shall state the details of any sentence imposed and the enactment under which any conviction is held in the proceedings in connection with the petition is made".

In Rule 8.(3) Part I Chapter VII High Court Rules

Substitute the words "Jabalpur or in case of Benches at Indore and Gwalior, in those towns" for the word "Nagpur" between the words "in and "shall".

After amendment Rule 8 (3) shall read as under :—

"Rule 8(3).—Cases in which any party is represented by a Single counsel not practising in Jabalpur or in case of Benches at Indore and Gwalior, in those towns shall be taken up on Thursday. If such cases are not completed on Thursday they shall be taken upon Friday, and if not then completed, shall be proceeded with on the subsequent Thursday. Such cases shall take precedence on Thursday over all cases including Part-heard cases.

In Rule I Part I Chapter VIII, High Court Rules

(1) Insert the words "except in case of Miscellaneous Petitions" in between the words "alone" and "unless" in the first proviso.

(2) Insert the word "further" after the word "provided" in the second proviso.

After amendment first proviso to Rule I shall read as under :—

"Provided that no paper-book shall be prepared in the matters to be ordinarily heard and disposed of by a judge sitting alone except in case of Miscellaneous Petitions unless otherwise directed by the court.

After amendment second proviso to rule I shall read as under :—

"Provided further that in a Miscellaneous case not provided for in these rules, it shall not be necessary to prepare a paper book but the Registrar may, if he thinks fit direct the preparation of a paper book and also what papers it shall contain and may pass orders as to the number of copies to be prepared the person or persons by whom the costs are to be borne, the papers to be included and any other incidental matter. The Registrar may if he thinks fit, direct the preparation of such paper-books at the expenses of Government. In such cases the attention of the court shall be drawn to this fact at the time of hearing and the court may pass such orders as it thinks fit as to the appointment and recovery of such costs "

Published in the *Madhya Pradesh Gazette, Extraordinary*, dated July 29, 1985.

DEPARTMENT

No. 4 (e)-6-1020-XVI-B.—In exercise of the powers conferred by sub-section (3) of Section 1 of the *Madhya Pradesh State Pencil Karmakar Kalyan Nidhi Adhiniyam*, 1982 (No. 13 of 1983), the State Government hereby appoints the 1st day of August 1985 as the date on which all the provisions of the said Act shall come into force.

THE MADHYA PRADESH APPROPRIATION (NO. 4) ACT, 1985

The following Act received the assent of the Governor on the 31st July, 1986 and was published in the "*Madhya Pradesh Gazette*" (*Extraordinary*), dated the 1st August 1985.

MADHYA PRADESH ACT NO. 14 OF 1985

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Madhya Pradesh for the services of the financial year 1985-86.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows :—

1 This Act may be called the *Madhya Pradesh Appropriation (No. 4) Act, 1985*.

(Text Omitted.)

THE MADHYA PRADESH KARADHA (SANSHODHAN) ADHINIYAM, 1985

The following Act received the assent of the Governor on the 1st August 1985 and was published in the "*Madhya Pradesh Gazette*" (*Extra.*), dated the 1st August 1985

MADHYA PRADESH ACT NO. 13 OF 1985

An Act further to amend the Madhya Pradesh Karadhan Adhinyam, 1982.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth

Year of the Republic of India as follows:—

1. *Short title and commencement*—(1) This Act may be called the **Madhya Pradesh Karadhan (Samsodhan) Adhiniyam, 1985**

(2) It shall come into force on the 1st day of August, 1985.

2. *Amendment of section 9*.—In section 9 of the Madhya Pradesh Karadhan Adhiniyam, 1982 (No. 15 of 1982),—

(i) for sub-section (1) the following sub-section shall be substituted, namely:—

“(1) There shall be levied and collected—

(a) on the land held under mining lease for undertaking mining operations for a major mineral other than coal a mineral areas development cess at the rate of one hundred per centum of the rental value thereof; and

(b) on the land held under mining lease for undertaking mining operations for coal, a mineral areas development cess at the rate of one hundred twenty five per centum of the rental value thereof.”;

(ii) to sub-section (4) the following proviso shall be added, at the end, namely:—

“Provided that if the mineral areas development cess is not paid within the prescribed date, there shall be charged interest at the rate of fifteen per cent per annum on the amount of cess or part thereof which has not been paid or deposited before the said date from the date the cess or the part thereof has become due for payment and the same shall be recoverable as an arrear of land revenue alongwith costs of recovery”.

Published in the *Madhya Pradesh Gazette, Extraordinary*, dated 10th September, 1985

TRANSPORT DEPARTMENT

No. 8-4-84-VIII.—(*Bhopal, the 9th September 1985*).—In exercise of the powers conferred by sub-section (3) of Section 1 of the Madhya Pradesh Motor Parivahan Yano Par Pathkar Ka Udgrahan Adhiniyam, 1985 (No. 17 of 1985), the State Government hereby appoints the 15th September 1985 as the date on which the said Act shall come into force.

TRANSPORT DEPARTMENT

No. 8-1-84-VIII.—(*Bhopal, the 31st August, 1985*).—In exercise of the powers conferred by sub-section (2) of the section 1 of the Madhya Pradesh Motor Vehicles Taxation (Amendment) Act, 1985 (No. 18 of 1985) the State Government, hereby, appoints 1st day of September 1985 as the date on which the said Act shall come into force.

Published in the *Madhya Pradesh Gazette, Extraordinary*, dated 1st August, 1985.

F. No. A-5-6-85(37)-ST-V.—(*Bhopal, the 1st August, 1985*).—In exercise of the powers conferred by sub-section (2) of Section 1 of the Madhya Pradesh General Sales Tax (Amendment) Act, 1985 (No. 14 of 1985), the State Government hereby appoints the 1st August 1985 as the date on which the said Act, shall come into force.

THE MADHYA PRADESH APPROPRIATION**(NO. 2) ACT, 1985.**

The following Act received the assent of the Governor on the 31st August 1985, Act and was published in the "*Madhya Pradesh Gazette (Extraordinary)*" dated the 5th September, 1985.

MADHYA PRADESH ACT No. 20 of 1985

An Act to provide for the authorisation or appropriation of moneys out of the Consolidated Fund of State of Madhya Pradesh to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1980 in excess of the amounts granted for those services and for that year.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Madhya Pradesh Appropriation (No. 2) Act, 1985.

(Text omitted)

THE MADHYA PRADESH APPROPRIATION**(NO. 3) ACT, 1985.**

The following Act received the assent of the Governor on the 31st August 1985, and was published in the "*Madhya Pradesh Gazette (Extraordinary)*" dated the 5th September 1985.

MADHYA PRADESH ACT NO. 21 of 1985

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of the State of Madhya Pradesh to meet the amount spent on certain services during the financial year ended on the 31st day of March, 1981 in excess of the amounts granted for those services and for that year.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Madhya Pradesh Appropriation (No. 3) Act, 1985.

(Text omitted)

**THE MADHYA PRADESH MOTOR PARIVAHAN YANO PAR
PATHKAR KA UDGRAHAN ADHINIYAM, 1985**

The following Act received the assent of the Governor on the 28th August, 1985, and was published in the "*Madhya Pradesh Gazette (Extraordinary)*", dated the 29th August, 1985.

MADHYA PRADESH ACT NO. 17 of 1985

An Act to provide for the levy of toll on certain motor vehicles entering in the State of Madhya Pradesh and for matters connected therewith or incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madhya Pradesh Motor Parivahan Yano Par Pathkar Ka Udgrahan Adhinyam, 1985.

(2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—
- (a) “barrier” means a barrier established under section 4 ;
 - (b) “goods vehicle” means a transport vehicle whether a private goods vehicle or public goods vehicle as defined in the Madhya Pradesh Motor Vehicles (Taxation of Goods) Act, 1962 (No. 19 of 1962) ;
 - (c) “operator” means any person whose name is entered in the permit in respect of the motor transport vehicle, as the holder thereof and includes any person for the time being in charge of such vehicle ;
 - (d) “toll” means the toll levied under section 3 ;
 - (e) “Toll Tax Officer” means such officer or officers as the State Government may, by notification, appoint to be the Toll Tax Officer for the whole of Madhya Pradesh or any area or areas thereof for the purposes of this Act and includes a Taxation Authority under the Madhya Pradesh Motor Vehicle Taxation Act, 1947 (No. 6 of 1947) or tax officer appointed under the Madhya Pradesh Motor Vehicles (Taxation of Goods) Act, 1962 (No 19 of 1962) ;
 - (f) “Motor transport vehicle” means a stage carriage of a goods vehicle ;
 - (g) words and expressions used and not defined in this Act but defined in the Motor Vehicles Act, 1939 (No. 4 of 1939) shall have the respective meanings assigned to them in that Act.
3. *Levy of toll.*—(1) There shall be levied a toll on every transport vehicle plying under a permit granted under the Motor Vehicles Act, 1939 (No. 4 of 1939) by an authority having jurisdiction outside Madhya Pradesh entering the State of Madhya Pradesh at such rate not exceeding one hundred rupees per vehicle, as the State Government may, by notification, specify :
- Provided that where toll has been paid once in respect of the entry of the vehicle no toll shall be levied for any subsequent entry thereof on the same day.
- (2) The toll shall be paid by the operator of the motor transport vehicle
4. *Establishment of barriers.*—For the purposes of collection of toll, the State Government shall by notification, establish barriers at such places on the boundary of the State as may be specified in the notification.
5. *Prohibition of entry without paying toll.*—No motor transport vehicle liable to pay toll under section 3, shall be entered or plied in the State unless the toll has been paid, and the Toll Tax Officer shall have the power to prevent the entry or plying of such vehicle in contravention of the provisions of this Act.
6. *Powers to stop and seize.*—(1) When so required by the Toll Tax Officer or any other person authorised by him in this behalf, the driver of a motor transport vehicle shall also stop the vehicle whether at the barrier or any other place within the State, and keep it stationary for a reasonable period in order to enable the Toll Tax Officer or the person so authorised, as the case may be, to satisfy him that the toll, if payable, has been paid and that other provisions of this Act have been complied with.

(2) When the Toll Tax Officer or the person authorised by him under sub-section (1) has reason to believe,—

(a) that the toll has not been paid, he may detain the vehicle or any part or accessory thereof sufficient in his opinion for realisation of or the toll, until the toll is paid, or

(b) that any breach of the provisions of this Act has been committed, detain the vehicle or any part or accessory thereof sufficient in his opinion for realisation of the maximum amount of penalty leviable under section 7, until cash security equivalent to such amount is, furnished :

Provided that no action under this sub-section shall be taken unless the driver of the vehicle has been given a reasonable opportunity of being heard.

(3) The vehicle so detained or the security so deposited shall be dealt within such manner as may, be prescribed.

7. *Penalty*.—If the Toll Tax Officer is satisfied after making such enquiry, as he may deem necessary that any person has committed a breach of any of the provisions of this Act or the rules made thereunder he may order that such person shall pay by way of penalty in addition to the toll, if any, payable by him, a sum not exceeding two hundred and fifty rupees :

Provided that no such order shall be made unless such person has been given a reasonable opportunity of being heard.

8. *Appeal*.—Any person aggrieved by an order under section 7 may, within thirty days from the communication of such order to him prefer an appeal against such order to such appellate authority as may be prescribed and the order of such appellate authority shall be final.

9. *Manner of levy, payment and collection of toll etc.*—(1) The toll shall be levied, paid and collected in such manner as may be prescribed.

(2) Without prejudice to the provisions of sub-section (1) any toll, penalty or other dues recoverable under this Act, if not paid within fifteen days of its becoming due may be recovered in the same manner as arrears of land revenue.

10. *Lump sum agreement*.—Notwithstanding anything contained in the foregoing provisions of this Act the State Government or any officer authorised by it in this behalf, may agree to accept a lump sum in lieu of the amount of toll that may be payable, for such period, as may be agreed upon, by the operator to the State Government :

Provided that any change in the rate of toll which may come into force after the date of such agreement shall have the effect of making a proportionate change in the lump sum agreed upon in relation to the part of the period of agreement during which such changed rate remains in force.

11. *Power of State Government to exempt from toll*.—The State Government may, by notification exempt in whole or in part any motor transport vehicle or or class of motor transport vehicle from the payment of toll for such period and subject to such restrictions and conditions as may be specified in the notification.

12. *Reciprocal agreement*.—Notwithstanding anything contained in this Act where any reciprocal agreement relating to levy collection and payment

of the toll is entered into by the State Government with any other State Government, the levy, collection and payment of the toll shall be in accordance with the terms and conditions of such agreement :

Provided that the toll so levied shall not exceed the toll which would have otherwise been levied under other provisions of this Act.

13. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported or intended to be done, in pursuance of the provisions of this Act or the rules made thereunder.

14. *Powers to make rules.*—(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may, provide for all or any of the following matters, namely :—

(i) the manner of dealing with the vehicle detained or the security deposited under sub-section (3) of section 6 ;

(ii) appellate authority to be prescribed under section 8 ;

(iii) the manner of levy, payment and collection of the toll under sub-section (1) of section 9 ;

(iv) any other matter which has to be or may be prescribed.

(3) The rules made under this Act shall be laid on the table of the Legislative Assembly.

THE MADHYA PRADESH MOTOR VEHICLES TAXATION (AMENDMENT) ACT, 1985

The following Act received the assent of the Governor on the 28th August 1985, and was published in the *Madhya Pradesh Gazette*, (Ext.), dated the 29th August, 1985.

MADHYA PRADESH ACT NO. 18 OF 1985

An Act further to amend the Madhya Pradesh Motor Vehicles Taxation Act, 1947.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of the India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the *Madhya Pradesh Motor Vehicles Taxation (Amendment) Act, 1985* :

(2) It shall come into force on such date as the State Government may, by notification, appoint

2. *Amendment of section 3*—After sub-section (2) of section 3 of the Madhya Pradesh Motor Vehicles Taxation Act, 1947 (No. 6 of 1947) (hereinafter referred to as the Principal Act), the following sub-section shall be inserted, namely :—

“(2-a) Notwithstanding anything contained in sub-section (2) the owner of a motor cycle,—

(i) which is registered on or after 1st January, 1985 but before the commencement of the Madhya Pradesh Motor Vehicle Taxation (Amendment) Act, 1985 under section 24 of the Motor Vehicles Act, 1939 (No. 4 of 1939) shall deposit the amount of tax in lump sum for ten years minus the amount of tax already deposited in respect of that motor cycle within 90 days of the commencement of the Madhya Pradesh Motor Vehicles

Taxation (Amendment) Act, 1985 ; and

(ii) applying for registration after the commencement of the Madhya Pradesh Motor Vehicles Taxation (Amendment) Act, 1985 shall deposit the amount of tax in lumpsum for ten years.

the amount of tax deposited under clause (i) or clause (ii) shall be treated as payment of tax for fifteen years in respect of that motor cycle".

3. *Amendment of section 3-B.*—For sub-section (1) of section 3-B of the Principal Act, the following sub-section shall be substituted, namely :—

"(1) In addition to the tax levied under section 3, there shall be levied and paid to the State Government, a surcharge on all goods vehicles and articulated vehicles at the rate of twenty per centum of the tax levied under that section."

4. *Amendment of First Schedule.*—In the First Schedule to the Principal Act, for items I, II, III, IV and V, the following items shall be substituted, namely :—

	Rs. P.
I. Motor Cycles—	
the unladen weight of which does not exceed 90 kilograms	... 48.00
the unladen weight of which exceeds 90 kilograms	... 60.00
Additional tax for side car or trailer	... 15.00
II. Motor Cars—	
the unladen weight of which does not exceed 760 kilograms	... 120.00
the unladen weight of which exceeds 760 kilograms but does not exceed 1,520 kilograms	... 170.00
exceeds 1,520 kilograms but does not exceed 2,280 kilograms	... 204.00
exceed 2,280 kilograms but does not exceed 3,040 kilograms	... 240.00
exceeds 3,040 kilograms	... 288.00
Additional tax for each trailer—	
the unladen weight of which does not exceed 1,016 kilograms	... 60.00
the unladen weight of which exceeds 1016 kilograms	... 120.00
Invalid Carriages	... 36.00
III. Public Service Vehicles	
(i) Motor Cycle for hire—	
the unladen weight of which does not exceed 90 kilograms	... 84.00
the unladen weight of which exceeds 90 kilograms	... 96.00
Additional Tax for each side car or trailer attached to Motor Cycle	... 48.00
(ii) Vehicle having seating capacity upto six seats, other than motor cycle for hire—	
(a) for the vehicle having seats capacity for passengers upto 3 seats.	80.00 (for each seat)

	Rs. P
(b) for the vehicle having seating capacity for passengers in all more than 3 but not more than 6.	80 00 (for each seat)
(iii) vehicle having seating capacity for— passengers more than 6 for hire—	
(a) for seating capacity upto 6 seats.	80 00 (for each seat)
(b) thereafter seating capacity exceeding 6 seats but does not exceed 20 seats.	72.00 (for each seat)
(c) thereafter seating capacity exceeding 20 seats but does not exceed 38 seats.	100 00 (for each seat)
(b) exceeding 38 seats.	120.00 (for each seat)
IV. Goods Vehicles or Articulated Vehicles—	...
the registered laden weight of which, as the case may be—	
does not exceed 1,780 kilograms	... 276.00
exceeds 1,780 kilograms but does not exceed 2,030 kilograms.	... 300.00
exceeds 2,030 kilograms but does not exceed 3,050 kilograms.	... 516.00
exceeds 3,050 kilograms but does not exceed 4,060 kilograms	... 696.00
exceeds 4,060 kilograms but does not exceed 4,570 kilograms	... 780.00
exceeds 4,570 kilograms but does not exceed 5,570 kilograms	... 948.00
exceeds 5,570 kilograms but does not exceed 6,580 kilograms	... 1116.00
exceeds 6,580 kilograms but does not exceed 7,480 kilograms	... 1272.00
exceeds 7,480 kilograms but does not exceed 8,390 kilograms	... 1428.00
exceeds 8,390 kilograms but does not exceed 9,300 kilograms	... 1680.00
exceeds 9,300 kilograms but does not exceed 10,200 kilograms	... 1836.00
exceeds 10,200 kilograms but does not exceed 11,000 kilograms	... 2507.00
exceeds 11,000 kilograms but does not exceed 12,000 kilograms	.. 2718.00
exceeds 12,000 kilograms but does not exceed 13,000 kilograms	.. 2930.00

exceeds 13,000 kilograms but does not exceed 14,000 kilograms	...	3140.00
exceeds 14,000 kilograms but does not exceed 15,000 kilograms	..	3352.00
exceeds 15,000 kilograms but does not exceed 16,000 kilograms	...	3486.00
and thereafter for each additional 1,000 kilograms or part thereof	...	210.00
V. All other motor vehicles not included in any of the categories of motor vehicles specified in this Schedule the unladen weight of which—		
does not exceed 760 kilograms	...	120.00
exceeds 760 kilograms but does not exceed 1,520 kilograms	...	240.00
exceeds 1,520 kilograms but does not exceed 2,030 kilograms	...	300.00
exceeds 2,030 kilograms but does not exceed 3,050 kilograms	...	444.00
exceeds 3,050 kilograms but does not exceed 4,060 kilograms	...	600.00
exceeds 4,060 kilograms but does not exceed 5,080 kilograms	..	840.00
exceeds 5,080 kilograms but does not exceed 6,100 kilograms	..	1080.00
exceeds 6,100 kilograms but does not exceed 7,000 kilograms, and thereafter for each additional 1,000 kilograms or part thereof	...	1356.00
Additional Tax for each tailor.	...	400 00
	...	120 00
5. <i>Omission of Fourth Schedule.</i> —The Fourth Schedule to the Principal Act shall be omitted.		

THE MADHYA PRADESH MOTOR VEHICLES (TAXATION OF GOODS) AMENDMENT ACT, 1985

The following Act received the assent of the President on the 16th September, 1985, and was published in the *Madhya Pradesh Gazette, (Extra)* dated the 25th September, 1985.

MADHYA PRADESH ACT NO. 23 OF 1985

An Act further to amend the Madhya Pradesh Motor Vehicles (Taxation of Goods) Act, 1962

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title*—This Act may be called the *Madhya Pradesh Motor Vehicles (Taxation of Goods) Amendment Act, 1985*.

2. *Amendment of section 2*—In section 2 of the Madhya Pradesh Motor Vehicles (Taxation of Goods) Act, 1962 (No. 19 of 1962) (hereinafter referred to as the Principal Act),—

(i) for clause (5-a), the following clause shall be substituted, namely :—

“(3-a) “Special Reciprocal Agreement” means the agreement entered into by the State of Madhya Pradesh with other signatory States for the purpose of issuing composite permits.”;

(ii) for clause (6), the following clause shall be substituted, namely:—

“(6) “tax” means the tax referred to in sections 4, 5-A and 5-B;”.

3. *Amendment of section 5-A.*—In section 5-A of the Principal Act,—

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2-A) If the owner of a public goods vehicle liable to pay the tax under sub-section (1) fails to pay it within the period specified in sub-section (2), he shall, in addition, be liable to pay an additional sum in accordance with the terms and conditions of the special reciprocal agreement”;

(ii) in sub-section (3), for the words, brackets and figure “payment has been made under sub-section (2)”, the words, brackets figures and letter “payment has been made under sub-section (2) and payment, if any, under sub-section (2-A) has been made” shall be substituted;

(iii) in sub-section (4), for the words, brackets and figure “the tax paid under sub-section (2) shall not be refundable under the circumstances”, the words, brackets, figures and letter “the tax paid under sub-section (2) and additional sum, if any paid under sub-section (2-A) shall not be refundable under any circumstances” shall be substituted;”.

4. *Amendment of section 5-B.*—In section 5-B of the Principal Act,—

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2-A) If the owner of a public goods vehicle liable to pay tax under sub-section (1) fails to pay it within the period specified in sub-section (2), he shall, in addition, be liable to pay an additional sum in accordance with the Forth Schedule ;”;

(ii) in sub-section (3), for the words, brackets and figures “payment has been made under sub-section (2)”, the words, brackets figures and letter “payment has been made under sub-section (2) and payment, if any, under sub-section (2-A) has been made” shall be substituted.

(iii) in sub-section (4), for the words, brackets and figures “the tax paid under sub-section (2) shall not be refundable under any circumstances” the words, brackets, figures and letter “the tax paid under sub-section (2) and additional sum, if any, paid under sub-section (2-A) shall not be refundable under any circumstances” shall be substituted.

5. *Substitution of new section for section 9.*—For section 9 of the Principal Act, the following section shall be substituted, namely:—

“9. *Procedure where no returns are submitted.*—Where no returns have been submitted by the owner in respect of any taxable vehicle for any month or portion thereof; or where the returns submitted by the owner in respect of any taxable vehicle for any month or portion thereof appear to the Tax Officer to be incorrect or incomplete, the Tax Officer shall after giving the owner a reasonable opportunity of being heard determine to the best of his judgment the sum payable to the State Government by the owner by way of tax for such month or portion thereof and if the Tax Officer is satisfied that the owner has wilfully failed to submit returns or

wilfully submitted incorrect or incomplete return, he may direct that the owner shall pay by way of penalty, in addition to the amount of tax so determined, a sum not exceeding one and a half times that amount.”.

6. *Substitution of new section for section 11.*—For section 11 of the Principal Act, the following section shall be substituted, namely :—

“11. *Penalty for non payment of tax.*—where the whole or any portion of tax payable to the State Government in respect of any taxable vehicle for any month or portion thereof, in pursuance of sections 8, 9 and 10 has not been paid to it in time, the Tax Officer may, after giving the owner a reasonable opportunity of being heard, direct that such owner shall, in addition to the amount due, pay, by way of penalty, a sum not exceeding ten rupees for every day during which the default continues.”.

7. *Insertion of new section 12-A*—After section 12 of the Principal Act, the following section shall be substituted, namely :—

“12A *Restriction on use of public goods vehicle or private goods vehicle.*—No public goods vehicle or private goods vehicle shall be used on any public road in the State—

(a) in case any tax or penalty payable in respect thereof remains unpaid for more than thirty days after the notice of demand referred to in section 12 has been served on the operator until such tax or penalty is paid ; or

(b) in case the return required by section 7 has not been submitted,—

(i) where daily return is required to be submitted after the expiry of period of seven days from the date prescribed for submission of return until the return is submitted ;

(ii) where return with reference to any other interval is required to be submitted until after the expiry of such period of periods from the date prescribed for submission of return, as may be prescribed with reference to period of interval, until the return is submitted.”.

8. *Amendment to section 15.*—In section 15 of the principal Act, after the second proviso, the following proviso shall be inserted, namely:

“Provided also that no application for revision shall be entertained, if an appeal has been filed under section 14 and is pending.”

9. *Amendment of section 19.*—In sub-section (1) of section 19 of the Principal Act, after clause (d), the following clause shall be inserted, namely :—

“(dd) fails to stop taxable vehicle when required so to do by any Officer acting under section 18, or obstructs any Officer in the exercise of his powers under the said section;”.

10. *Amendment of Fourth Schedule.*—In the Fourth Schedule to the Principal Act, after paragraph 2, the following paragraph shall be added, namely :—

“(3) The additional sum payable with reference to National Permit shall be one hundred rupees per month or part thereof.”.

**THE MADHYA PRADESH VIDHAN SABHA SADASYA
VETAN, BHATTA TATHA PENSION (SANSHODHAN)
ADHINIYAM, 1985**

The following Act, received the assent of Governor on the 30th September, 1985; and was published in the "*Madhya Pradesh Gazette*" (*Extraordinary*), dated the 3rd October, 1985.

MADHYA PRADESH ACT NO. 24 OF 1985.

An Act further to amend the Madhya Pradesh Vidhan Sabha Sadasya Vetan, Bhatta Tatha Pension Adhiniyam, 1972.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Madhya Pradesh Vidhan Sabha Sadasya Vetan, Bhatta Tatha Pension (Sanshodhan) Adhiniyam, 1985.

2. *Amendment of section 5-A.*—For sub-section 5-A of the Madhya Pradesh Vidhan Sabha Sadasya Vetan, Bhatta Tatha Pension Adhiniyam, 1972 (No. 7 of 1973), the following sub-sections shall be substituted, namely:—

"(1) Every member shall be provided with railway coupons which shall, subject to such rules as may be made by the State Government in this behalf, entitle him and to one person accompanying him to travel by first class or by air conditioned sleeper coach or by second class sleeper coach by any railway—

(i) within the State without any restriction; and

(ii) outside the State only to the extent of 6000 kilometers per year."

**THE MADHYA PRADESH AUDHYOGIK NIYOJAN (STHAYEE
AADESH) SANSHODHAN ADHINIYAM, 1985**

The following Act received the assent of the Governor on the 10th October, 1985; and was published in the "*Madhya Pradesh Gazette*" (*Extraordinary*), dated the 16th October, 1985.

MADHYA PRADESH ACT NO. 25 OF 1985.

An Act further to amend the Madhya Pradesh Audhyogik Niyojan (Sthayee Aadesh) Adhiniyam, 1961.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-Sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Madhya Pradesh Audhyogik Niyojan (Sthayee Aadesh) Sanshodhan Adhiniyam, 1985.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. *Amendment of section 9.*—In sub-section (1) of section 9 of the Madhya Pradesh Audhyogik Niyojan (Sthayee Aadesh) Adhiniyam, 1961 (No. 26 of 1961) (hereinafter referred to as the Principal Act), for the words "Any person" the words "Any employer, employee or representative of employee" shall be substituted.

3. *Amendment of section 18.*—In section 18 of the Principal Act, for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898, (No. V of 1898)", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973 (No. 2 of 1974)" shall be substituted.

THE END

PART XII

ORISSA ACTS, ORDINANCES & NOTIFICATIONS

1985

THE ORISSA ELECTRICITY (DUTY) (AMENDMENT) ORDINANCE, 1984

The following Ordinance promulgated by the Governor of Orissa on the 5th June, 1984 was published in the *Orissa Gazette (Ext.)* dated June 7, 1984

ORISSA ORDINANCE No. 8 OF 1984

An Ordinance to Amend the Orissa Electricity (Duty) Act, 1961

Whereas, the Legislature of the State of Orissa is not in session;

And, Whereas, the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Electricity (Duty) Act, 1961 (Orissa Act 14 of 1961), in the manner hereinafter appearing;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fifth Year of the Republic of India :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Orissa Electricity (Duty) Amendment Ordinance, 1984.

2. It shall come into force at once.

2. *Amendment of Section 3.*—In Section 3 of the Orissa Electricity (Duty) Act, 1961 (Orissa Act 14 of 1961), sub-section (4), clause (a) shall be deleted.

B. N. PANDE

Dated the 15th June, 1984

Governor of Orissa.

THE ORISSA MUNICIPAL COUNCILS (POSTPONEMENT OF ELECTIONS) ACT, 1984

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 2nd April, 1984 was published in the *Orissa Gazette (Ext.)*, No. 505, dated April 2, 1984.

ORISSA ACT NO. 9 OF 1984

An Act to provide for the Postponement of Elections to Municipal Councils of the State.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Orissa Municipal Councils (Postponement of Elections) Act, 1984**.

(2) It shall be deemed to have come into force on the 4th day of February, 1984.

2. *Definitions*.—In this Act, unless the context otherwise requires :—

(a) “Municipal Act” means the Orissa Municipal Act, 1950 (Orissa Act 23 of 1950) ;

(b) “Municipal Council” means a Municipal Council constituted under the Municipal Act and includes a Notified Area Council constituted thereunder ;

(c) words and expressions used in this Act shall have the same meaning as assigned to them respectively, under the Municipal Act.

3. *Postponement of General Elections in Municipal Councils*.—Notwithstanding anything contained in the Municipal Act or in any rules or orders made or issued thereunder :—

(a) all proceeding or actions, excepting those actions for delimitation of wards and reservation of seats for members of Scheduled Castes and Scheduled Tribes, taken in furtherance of holding general elections for the reconstitution of the Municipal Councils specified in the Schedule are hereby cancelled ; and

(b) the general elections for the reconstitution of the said Municipal Councils shall be held in accordance with the provisions of the Municipal Act and the rules made thereunder on such date, not being later than the 30th June, 1984, as may be fixed by the State Government and the election so held shall, for all purposes, be deemed to be a general election held under that Act.

4. *Repeal and saving*.—(1) The Orissa Municipal Councils (Postponement of Elections) Act, 1983 (Orissa Act 20 of 1983), the Orissa Municipal Councils (Postponement of Elections) (No. 2) Act, 1983 (Orissa Act 21 of 1983), and the Orissa Municipal Councils (Postponement of Elections) Ordinance, 1984 (Orissa Ordinance No. 3 of 1984), are hereby repealed.

(2) Notwithstanding such repeal of the said Ordinance anything done or any action taken thereunder shall be deemed to have been done or taken under this Act.

SCHEDULE

1. Chikiti Notified Area Council, 2. Pipili Notified Area, Council,
3. Udala Notified Area Council, 4. Purushottampur Notified Area Council
5. Banpur Notified Area Council. 6. Jagatsinghpur Notified Area, Council,
7. Buguda Notified Area Council, 8. Kendrapara Municipal Council,
9. Jharsuguda Municipal Council, 10. Trabaha Notified Area, Council,
11. Bouban Notified Area Council, 12. Nimapara Notified Area Council,
13. Hirakud Notified Area Council, 14. Deogarh Municipal Council,
15. Bhubaneswar Municipal Council, 16. Sambalpur Municipal Council,
17. Karanjia Notified Area Council, 18. Junagarh Notified Area Council,
19. Digapahandi Notified Area, Council, 20. Basudevpur Notified Area,
21. Bellaguntha Notified Area Council, 22. Talcher Municipal Council,

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|--------------------------------------|--|
| 23. Padampur Notified Area Council, | 24. Keonjhar Municipal Council, |
| 25. Angul Notified Area Council, | 26. Soro Notified Area, Council, |
| 27. Khallikote Notified Area Council | 28. Chowdwar Municipal Council |
| 29. Jajpur Municipal Council | 30. Jajpur Road Notified Area Council |
| 31. Athagarh Notified Area Council | 32. Nayagarh Notified Area Council |
| 33. Jatni Notified Area Council | 34. Khurda Notified Area Council |
| 35. Balasore Municipal Council | 36. Bargarh Municipal Council |
| 37. Dhenakal Municipal Council | 38. Sonepur Municipal Council |
| 39. Titilagarh Notified Area Council | 40. Kantabanji Notified Area Council |
| 41. Rairangpur Notified Area Council | 42. Sundergarh Municipal Council |
| 43. Biramitrapur Municipal Council | 44. Rajganpur Municipal Council |
| 45. Bhawanipatna Municipal Council | 46. Khariar Road Notified Area Council |
| 47. Khariar Notified Area Council | 48. Kesinga Notified Area Council |
| 49. Nowrangpur Municipal Council | 50. Rayagada Municipal Council, |
| 51. Kotpad Notified Area Council | 52. Umerkote Notified Area Council |
| 53. Berhampur Municipal Council | 54. Parlakhemundi Municipal Council |
| 55. Chatrapur Notified Area Council | 56. Sorada Notified Area Council |
| 57. Rambha Notified Area Council | 58. Gopalpur Notified Area Council |
| 59. Hinjilicut Notified Area Council | 60. Kasinagar Notified Area Council |
| 61. Polasara Notified Area Council | 62. Bhanjanagar Notified Area Council |
| 63. Phulbani Notified Area Council | 64. Boudhagarh Notified Area Council |
| 65. Binika Notified Area Council | 66. Kuchinda Notified Area Council |
| 67. Gudari Notified Area Council | |

THE CHATRAPUR NOTIFIED AREA COUNCIL (POSTPONEMENT OF ELECTION) ORDINANCE, 1984

The following Ordinance promulgated by the Governor of Orissa on the 28th July 1984, was Published in the *Orissa Gazette (Ext.)*, date July 31, 1984

ORISSA ORDINANCE NO. 10 OF 1984

An Ordinance to provide for the Postponement of Election to Chatrapur Notified Area Council of the State

Whereas the legislature of the State of Orissa is not in session;

And whereas, the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action for the postponement of election to the Chatrapur Notified Area Council of the State;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fifth Year of the Republic of India :—

1 *Short title and commencement*—(1) This Ordinance may be called the Chatrapur Notified Area Council (Postponement of Election) Ordinance, 1984.

(2) It shall be deemed to have come into force on the 1st day of July, 1984.

2. *Definition.*—In this Ordinance, unless the context otherwise requires :—

(a) "Municipal Act" means the Orissa Municipal Act, 1950 (Orissa Act 23 of 1950).

(b) "Council" means the Notified Area Council of Chatrapur ;

(c) Words and expressions used in this Ordinance but not defined shall have the same meaning as assigned to them respectively, under the Municipal Act.

3. *Postponement of general election in Chatrapur Notified Area Council.*—Notwithstanding anything contained in the Municipal Act or in any rules or orders made or issued thereunder—

(a) all proceedings or actions, excepting those actions taken for delimitation of wards and reservation of seats for members of Scheduled Castes and Scheduled Tribes, taken in furtherance of holding general election for the reconstitution of the Council are hereby cancelled ; and

(b) the general election for the reconstitution of the Council shall be held in accordance with the provisions of the Municipal Act and the rules made thereunder on such date, not being later than the 30th June, 1985, as may be fixed by the State Government and the election, so held shall, for all purposes, be deemed to be a general election held under the Municipal Act.

4. *Transitory provision.*—The Subdivisional Officer, Chatrapur shall exercise the powers and perform the functions of the Council and its Chairman till the date of first meeting of the newly election Council with the required quorum present.

B. N. PANDE

Governor of Orissa.

Dated the 28th July, 1984

THE BERHAMPUR UNIVERSITY (AMENDMENT) ORDINANCE, 1984

The following Ordinance promulgated by the Governor of Orissa on the 6th June, 1984 was published in the *Orissa Gazette (Ext.)* date June 6, 1984

ORISSA ORDINANCE NO. 7 OF 1984

An Ordinance to Amend the Berhampur University Act, 1966

Whereas, the Legislature of the State of Orissa is not in session ;

And, Whereas, the Governor of Orissa is satisfied that circumstance exist which render it necessary for him to take immediate action to amend the Berhampur University Act, 1966 in the manner hereinafter appearing ;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fifth year of the Republic of India :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Berhampur University (Amendment) Ordinance, 1984.

(2) It shall come into force at once.

2. *Amendment of Section 6.*—In Section 6 of the Berhampur University Act, 1966, (Orissa Act 21 of 1966), in the proviso to Sub-section (8), for

the words "not exceeding four months, as he may fix", the words "as he may, from time to time, fix, so, however, that the total period shall not exceed eight months", shall be substituted.

B. N. PANDEY
Governor of Orissa

Dated the 6th June, 1984

THE ORISSA ELECTRICITY DUTY (AMENDMENT) ACT, 1984

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 16th October, 1984, was published in the *Orissa Gazette*, (Ext.), No. 1811, dated the 16th October, 1984.

ORISSA ACT NO. 23 OF 1984

An Act to amend the Orissa Electricity (Duty) Act, 1961.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Orissa Electricity (Duty) (Amendment) Act, 1984**.

(2) It shall be deemed to have come into force with effect from the 7th day of June, 1984.

2. *Amendment of section 3.*—In section 3 of the Orissa Electricity (Duty) Act (14 of 1961), in sub-section (4), clause (a) shall be deleted.

3. *Repeal and savings.*—(1) The Orissa Electricity (Duty) (Amendment) Ordinance, 8 of 1984 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

THE ORISSA ESTATES ABOLITION (AMENDMENT) ACT, 1984

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 26th October, 1984, was published in the *Orissa Gazette*, (Ext.), No. 1899 dated 30th October, 1984.

ORISSA ACT NO. 25 OF 1984

An Act to amend the Orissa Estate Abolition Act, 1951.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Orissa Estates Abolition (Amendment) Act, 1984**.

(2) It shall come into force at once.

2. *Amendment of section 7-A.*—In section 7-A of the Orissa Estate Abolition Act, 1951 (Orissa Act 1 of 1952), in sub-section (1) in clause (i) of the proviso, for the words "five years", the words "seven years" shall be substituted.

THE ORISSA LEGISLATIVE ASSEMBLY MEMBER'S SALARY ALLOWANCES AND PENSION (AMENDMENT) ACT, 1984

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 13th December, 1984, was published in the *Orissa Gazette*, (Ext.), No. 2189, dated 17th December, 1984.

ORISSA ACT NO. 28 OF 1984

An Act to amend the Orissa Legislative Assembly Members' Salary Allowances and Pension Act, 1954.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Orissa Legislative Assembly Members' Salary, Allowances and Pension (Amendment) Act, 1984**.

(2) It shall come into force at once.

2. *Amendment of section 4-B.*—In section 4-B of the Orissa Legislative Assembly Members' Salary, Allowances and Pension Act, 19 of 1954—

(a) in the proviso to sub-section (1), for the words “thirty rupees” the words “forty rupees” and for the words “four hundred and fifty rupees” the words “five hundred rupees” shall be substituted ;

(b) in sub-clause (b) of clause (ii) of the Explanation below sub-section (1) for the figures and words “30 days”, the words “one hundred and eighty days” shall be substituted.

THE ORISSA MUNICIPAL COUNCILS (POSTPONEMENT OF ELECTIONS) (AMENDMENT) ACT, 1984

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 25th September, 1984, was published in the *Orissa Gazette, (Ext.)*, No. 1724, dated the 28th September, 1984.

ORISSA ACT NO. 21 OF 1984

An Act to amend the Orissa Municipal Councils (Postponement of Elections) Act, 1984.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the **Orissa Municipal Councils (Postponement of Elections) (Amendment) Act, 1984**.

(2) It shall be deemed to have come into force on the 22nd day of April, 1984.

2. *Amendment of section 3.*—In clause (b) of the section 3 of Orissa Municipal Councils (Postponement of Elections) Act, 1984, after the words, figures and letters “the 30th June, 1984”, the words, figures and letters “except for the Bhubneshwar Municipal Council which shall be held not later than the 31st December, 1984” shall be inserted.

3. *Repeal and savings.*—(1) The Orissa Municipal Councils (Postponement of Elections) (Amendment) Ordinance, 6 of 1984, is hereby repealed.

(2) Notwithstanding such repeal of the said Ordinance anything done or any action taken thereunder shall be deemed to have been done or taken ~~by~~ this Act.

THE ORISSA UNIVERSITY LAWS (AMENDMENT) ACT, 1984

The following Act of Orissa Legislative Assembly having been assented to by the Governor on the 26th October, 1984, was published in the *Orissa Gazette, (Ext.)*, No. 1900, dated the 30th October, 1984.

ORISSA ACT NO. 24 OF 1984

An Act to amend the Utkal University Act, 1966, the Berhampur University

Act, 1966, the Sambalpur University Act, 1966, and Shri Jagannath Sanskrit Vishwavidyalaya Act, 1961.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement*—(1) This Act may be called the **Orissa University Laws (Amendment), 1984.**

(2) It shall come into force at once.

2. *Amendment of section 21 of Orissa Acts 20 of 1966, 21 of 1966 and 22 of 1966*—Section 21 of the Utkal University Act, (20 of 1966), the Berhampur University Act (21 of 1966), and the Sambalpur University Act (22 of 1966), shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered following new sub-section shall be inserted, namely :—

“(2) All reports on audit made under sub-section (1) shall, as soon as may be, after they are received by the Examiner of Local Accounts, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions”.

3. *Amendment of section 22 of Orissa Act 31 of 1981*.—Section 22 of Shri Jagannath Sanskrit Vishwavidhyala Act (31 of 1981), shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so renumbered the following new sub-section shall be inserted, namely :—

“(2) All reports on audit made under sub-section (1) shall, as soon as may be, after they are received by Examiner of Local Accounts, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions.”

THE ORISSA CIVIL COURTS ACT 1984

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 30th July, 1984, was published in the *Orissa Gazette, (Ext.)*, No. 1436, dated the 10th August, 1984.

ORISSA ACT NO. 18 OF 1984

An Act to consolidate and amend the Law relating to Civil Courts in Orissa.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title, extent and commencement*.—(1) This Act may be called the **Orissa Civil Courts Act, 1984.**

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. *Classes of Civil Courts*.—(1) There shall be the following classes of Civil Courts under this Act, namely :—

(a) The Court of the District Judge which shall include the Court of the Additional District Judge ;

(b) The Court of the Subordinate Judge which shall include the Court of the Additional Subordinate Judge ; and

(c) The Court of Munsif which shall include the Court of the Additional Munsif.

(2) The Court of the District Judge shall be the principal court of original civil jurisdiction in the district.

Explanation.—For the purposes of this sub-section the expression “District Judge” shall not include an Additional District Judge.

3. *Number of Courts.*—The State Government may, from time to time, on the recommendation of the High Court, determine the number of Courts of District Judges, Additional District Judges, Subordinate Judges, Additional Subordinate Judges, Munsifs and Additional Munsifs.

4. *Vacancies in the offices of District Judges and Subordinate Judges.*—(1) Whenever the office of the District Judge or of the Subordinate Judge is vacant by reason of death, resignation or removal of the Judge, or due to any other reason, or whenever an increase in the number of Courts of District or Subordinate Judges has been made under the provisions of section 3, the vacancy may be filled up by appointment, in the case of a District Judge, by the Governor in consultation with the High Court and in the case of a Subordinate Judge, by the High Court.

(2) The High Court may appoint a District Judge or a Subordinate Judge to discharge, for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

5. *Additional Judges.*—(1) Whenever the business pending before any District Judge requires the aid of the Additional Judges for its speedy disposal, the Governor may, after consultation with the High Court, appoint such number of Additional Judges as may be necessary.

(2) The Additional Judges so appointed shall, subject to the general or special order of the High Court, discharge all or any of the functions of the District Judge as are assigned to them either under this Act or under any other law for the time being in force and in discharge of such functions they shall exercise the same powers as a District Judge.

6. *Administrative control of courts.*—Subject to the superintendence of the High Court, the District Judge, shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

7. *Temporary charge of District Courts.*—(1) In the event of the death, resignation, removal or transfer of a District Judge, or of his being incapacitated by illness or otherwise of the performance of his duties, or of his absence from the place at which his court is held and unless any other arrangement has been made by the High Court, the Additional District Judge or if an Additional District Judge is not present at that place, the senior most judicial officer exercising civil powers present and available thereat shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge and shall continue in charge thereof until the office is resumed by the District Judge, or assumed by an officer appointed thereto.

(2) While in charge of the office of the District Judge, the Additional District Judge or the senior most judicial officer exercising civil powers, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

8. *Transfer of proceedings on vacation of office of Subordinate Judge or Munsif.*—(1) In the event of the death, resignation or removal of a Subordinate Judge or of his being incapacitated by illness or otherwise for the per-

formance of his duties or in the event of his absence from the place at which his court is held, the District Judge may transfer all or any of the proceedings pending in the court of the Subordinate Judge either to his own court or to any court under his administrative control competent to dispose of them :

Provided that the District Judge may transfer to the court of the Subordinate Judge or his successor any proceedings transferred to his or any other court :

Provided further that in respect of proceedings not pending in the Court of Subordinate Judge, on the occurrence of an event referred to above and with respect to which the Subordinate Judge has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that court.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the court to which they are so transferred

(3) The provisions contained in sub-sections (1) and (2) shall *mutatis mutandis*, apply to proceedings pending in the court of a Munsif.

9. *Power to fix local limits of jurisdiction of Courts.*—(1) The State Government, may in the consultation with the High Court and by notification, fix and alter the local limits of the jurisdiction of any Civil Court established under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or two or more Munsifs, the District Judge may, subject to any general or special orders of the High Court, assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as he thinks fit :

Provided that a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area of which the civil business is assigned by the District Judge, if the place is within the local limits fixed by the State Government under sub-section (1).

(3) A Judge of a Court of small causes appointed to be also a Subordinate Judge or Munsif, shall be a Subordinate Judge or Munsif, as the case may be, for the purposes of this section.

10. *Place of sitting of Courts.*—The State Government may, in consultation with the High Court and by notification; fix and alter the place of sitting of any Civil Court established under this Act.

11. *Holidays and vacations.*—(1) The Civil Courts in the State shall remain closed on such days as the High Court, in consultation with the State Government, notifies in the official gazette for the whole of the State or any local area.

(2) The Civil Court shall have three vacations each year viz. Summer, Dasera and Winter and the total period of three vacations inclusive of Sundays and other holidays falling within them shall not exceed sixty days and the High Court shall fix the period of each vacation.

(3) Notwithstanding anything contained in this Act or in the Code of Civil Procedure, (5 of 1908), the High Court may, by general or special order, make such arrangements as it deems fit for the disposal of urgent

matters arising during the vacations.

(4) The jurisdiction of the Vacation Judge shall extend to such matters as the High Court may, by order, determine.

(5) Notwithstanding any arrangement made under sub-section (3) or sub-section (4), all the Civil Courts shall, for the purposes of the Limitation Act, (36 of 1963), be deemed to be closed during the three vacation.

(6) A judicial act done by a Civil Court on a holiday notified as such shall not be invalid by reason only of its having been done on such holiday unless it has caused prejudice to any party.

12. *Seals of Courts*—Every Civil Court established under this Act, shall use a seal of such form and dimensions as are prescribed by the High Court.

13. *Continuance of proceedings of Courts ceasing to have jurisdiction.*—

(1) Where any Civil Court established under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceedings in relation to that case which, if that court had not ceased to have jurisdiction might have been had therein, may be had in the court to which the business of the former court has been transferred :

Provided that if such proceeding relates to a part-heard case it shall continue in the file of the court ceasing to have jurisdiction up to the stage of delivery of the judgement.

(2) Nothing in this section shall apply to cases for which provision is made in sections 36, 37 and 114 of, and rule 1 of Order XLVII in Schedule I to, the Code of Civil Procedure, (5 of 1908) or in any other enactment for the time being in force.

14. *Extent of original jurisdiction of District or Subordinate Judge.*—

Save as otherwise provided by any enactment for the time being in force the jurisdiction of a District Judge or Subordinate Judge extends subject to the provisions of section 15 of the Code of Civil Procedure, (5 of 1908), to all original suits for the time being cognizable by Civil Courts.

15. *Extent of jurisdiction of Munsif*—(1) Save as aforesaid, the Jurisdiction of a Munsif extends to all like suits of which the value does not exceed four thousand rupees.

(2) The High Court may, by notification, with respect to any Munsif named therein direct that his jurisdiction shall extend to all like suits of such value not exceeding ten thousand rupees as may be specified in the notification.

16. *Appeals*—(1) Save as otherwise provided by any enactment for the time being in force,—

(a) an appeal from a decree or order of District Judge or Additional District Judge shall lie to the High Court ;

(b) an appeal shall not lie to the High Court from a decree or order of an Additional District Judge in any case, in which if the same had been made by the District Judge an appeal would not lie to the High Court.

(2) Save as aforesaid, an appeal from the decree or order of a Subordinate Judge shall lie—

(a) to the District Judge, where the value of original suit in which or in any proceeding arising out of which the decree or order was made, did not exceed twenty thousand rupees ; and

(b) to the High Court, in any other case

(3) Save as aforesaid, an appeal from the decree or order of a Munsif shall lie to the District Judge.

(4) Where the function of receiving any appeal which lie to the District Judge under sub-section (2) or sub-section (3) has been assigned to an Additional District Judge, the appeals may be preferred in the Court of such Additional District Judge.*

(5) The High Court may, by notification, direct that any or all appeals referred to in sub-section (3) shall be preferred in the Court of any Subordinate Judge mentioned in the notification, and the appeals shall, thereupon, be preferred accordingly.

17. *Power to transfer to Subordinate Judges, appeals from Munsifs*—(1) Any appeal pending before a District Judge from any decree or order of a Munsif may be transferred by the District Judge to any subordinate Judge under his administrative control.

(2) The District Judge may withdraw any appeal so transferred and either hear and dispose of it himself or transfer it to a Court under his by a administrative control competent to dispose of it.

(3) Appeal transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the the District Judge.

18. *Proceedings under Indian Succession Act, 1925*—(1) The High Court may, by general or special order, authorise any Subordinate Judge to take cognizance of, any District Judge to transfer to a Subordinate Judge under his administrative control, any proceedings class or class of proceedings under the Indian Succession Act (39 of 1925), which cannot be disposed by a District Delegate.

Explanation—"District Delegate" means a District Delegate within the meaning of section 265 of the Indian Succession Act (39 of 1925).

(2) The District Judge may withdraw any proceeding referred to in sub-section (1) to his own file and may dispose of them himself or may transfer them to a competent court under his administrative control

(3) Proceedings taken cognizance of by or transferred to a Subordinate Judge shall be disposed of by him according to the rules applicable to like proceedings when dealt with by the District Judge.

19. *Conferring jurisdiction under Small Cause Courts Act, 1887*—The High Court may by notification, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction to try suits under the Provincial Small Cause Courts Act (9 of 1887), up to such amount as it may deem proper but not exceeding in the case of a Subordinate Judge the value of two thousand and five hundred rupees and in the case of a Munsif one thousand rupees.

20. *Investing Subordinate Judges with powers under certain Acts*—(1) The High Court may, by notification, invest any Subordinate Judge within such local limits and subject to such pecuniary limitations as it may deem fit, with all or any of the powers of a District Judge under any of the following Acts, namely :—

(i) Indian Divorce Act, 4 of 1869;

(ii) The Guardians and Wards Act, 8 of 1869,

(iii) The Hindu Minority and Guardianship Act, 32 of 1956, and

(iv) The Indian Lunacy Act, 4 of 1912.

(2) An appeal against every order made by a Subordinate Judge by virtue of the powers conferred upon him under sub-section (1) shall lie to-

(i) the District Court when the amount or value of the subject matter is less than twenty-five thousand rupees ; and

(ii) the High Court in other case.

(3) An appeal against every order of the District Judge passed in an appeal under sub-section (2) shall lie to the High Court under the rules contained in the Code of Civil Procedure (5 of 1908), applicable to appeals from appellate decrees.

21. Powers of Civil Courts to other officers.—(1) The State Government may, after consultation with the High Court, invest any officer with the powers of any Civil Court under this Act by name or by virtue of office.

(2) Where the place at which the Court of such officer invested with powers under sub-section (1) is to be held has not been fixed under Section 10, he may hold court at any place within the local limits of his jurisdiction.

(3) Nothing in Sections 3, 4, 5, 7 or 8 shall apply to such officer, but all other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

22. Rule of decisions.—(1) Where in any suit or other proceedings it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution, the personal law of the parties, be they Hindus or Mohammedans, as the case may be, shall form the rule of decision, except in so far as such law has by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

23. Judge not to try suits in which he is personally interested.—(1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(2) The presiding officer of an appellate Court under this Act shall not hear an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (2) comes before any such officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate with a report of the circumstances attending the reference.

(4) The superior Court shall, thereupon, dispose of the case under Section 24 of the Code of Civil Procedure, (5 of 1908).

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

Explanation—The presiding officer of a court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of such District Judge and for the purposes of the Code of Civil Procedure, (5 of 1908), the court presided over by such an officer shall be deemed to be of a grade inferior to that of the court of the District Judge.

24. *Application of Acts to Courts of Small Causes.*—The provisions contained in Sections 11, 22 and 23 shall apply to courts of small causes constituted under the Provincial Small Cause Courts Act, 9 of 1887, and save as otherwise provided in that Act, the other provisions of this Act shall not apply to such courts.

25. *Repeal and savings*—(1) With effect from the date of coming into force of this Act, the Bengal, Agra and Assam Civil Courts Act, 12 of 1887 shall stand repealed in its application to the State of Orissa.

(2) Notwithstanding such repeal, all courts constituted, appointments made, rules framed, notifications and order issued, jurisdictions and powers conferred and lists published under the Act so repealed shall be deemed to have been respectively constituted, made, framed, issued, conferred and published under this Act.

THE ORISSA APPROPRIATION (NO. 3) ACT, 1984

The following Act of Orissa Legislative Assembly having been assented to by the Governor on the 10th October, 1984, was published in the *Orissa Gazette*, (Ext.), No. 1959, dated the 17th November, 1984.

ORISSA ACT NO. 26 OF 1984

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of the State of Orissa to meet the amounts spent on certain services during the financial year ending on the 31st day of March of the years 1972 to 1980 in excess of the amounts granted for those services and for those year.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Orissa Appropriation (No. 3) Act, 1984**,

(Text omitted)

THE ORISSA APPROPRIATION ACT, 1985

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 20th March, 1985 was published in the *Orissa Gazette*, (Ext.), dated March 21, 1985.

ORISSA ACT NO. 1 OF 1985

An Act to authorise Payment and Appropriation of certain further sums from and out of the Consolidated Fund of the State of Orissa for the services of the Financial Year 1984-85.

Be it enacted by the Legislature of the State of Orissa in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Orissa Appropriation Act, 1984**.

(Text omitted)

Published in the *Orissa Gazette* (Ext.), No. 1775, dated October 11, 1985.

THE ORISSA RELIEF UNDERTAKINGS (SPECIAL PROVISIONS)
(AMENDMENT AND VALIDATION) ORDINANCE, 1984
ORISSA ORDINANCE NO. 11 OF 1984

An Ordinance to amend the Orissa Relief Undertakings (Special Provisions) Act, 1983 and to validate certain actions taken thereunder.

Whereas the Legislature of the State of Orissa is not in session ;

And Whereas the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Relief Undertakings (Special Provisions) Act, 1983 and to validate certain actions taken thereunder in the manner hereinafter appearing ;

And Whereas instructions from the President have been received to promulgate an Ordinance for the said purpose ;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fifth Year of the Republic of India :—

1. *Short title and commencement* —(1) This Ordinance may be called the **Orissa Relief Undertakings (Special Provisions) (Amendment and Validation) Ordinance, 1984.**

(2) It shall come into force at once.

2. *Amendment of section 1* —In Section 1 of the Orissa Relief Undertakings (Special Provisions) Act, 1983 [Orissa Act 3 of 1984] (hereinafter referred to as the principal Act) sub-section (3) shall be deleted and shall always be deemed to have been so deleted

3. *Validity of things done, actions taken and notifications issued.*—Notwithstanding anything contained in the principal Act, anything done, any action taken or any notification issued by the State Government in the belief or purported belief that while doing such thing, taking such action or issuing such notification the principal was in full force and application and contained provisions enabling the State Government to do such thing, take such action and issue such notification, shall not be questioned in any court of law or otherwise open to challenge merely on the ground that the Act was not in force or application or did not contain provisions enabling the State Government to do the things, to take the actions or to issue the notifications and such things done, actions taken or notification issued shall be deemed to have been validly done, taken or issued in exercise of the powers conferred by the provisions of the principal Act

Published in the *Orissa Gazette, (Ext.)*, No. 2243, dated December 27, 1984.

THE ORISSA CONTINGENCY FUND (AMENDMENT) ORDINANCE, 1984

ORISSA ORDINANCE NO. 13 OF 1984

An Ordinance to amend the Orissa Contingency Fund Act, 1967.

Whereas, the Legislature of the State of Orissa is not in session ;

And, Whereas, the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Contingency Fund Act, 1967 in the manner hereinafter appearing ;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fifth Year of the Republic of India :—

1. *Short title.*—This Ordinance may be called the **Orissa Contingency Fund (Amendment) Ordinance, 1984.**

2. *Orissa Act 18 of 1967 to be temporarily amended*—During the period of operation of this Ordinance, the Orissa Contingency Fund Act, 18 of 1967 (hereinafter referred to as the principal Act) shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 2.*—In section 2 of the principal Act, in sub-section (1), for the words “twenty crores of rupees”, the words “fifty crores of rupees” shall be substituted.

Published in the *Orissa Gazette, (Ext.)*, No. 2185, dated December 15, 1984.

**THE ORISSA DEVELOPMENT AUTHORITIES (AMENDMENT)
ORDINANCE, 1984**

ORISSA ORDINANCE NO. 12 OF 1984

An Ordinance to amend the Orissa Development Authorities Act, 1982.

Whereas, the Legislature of the State of Orissa is not in session ;

And Whereas the Governor of Orissa is satisfied that the circumstances exist which render it necessary for him to take immediate action to amend the Orissa Development Authorities Act, 1982 ;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fifth Year of the Republic of India :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Orissa Development Authorities (Amendment) Ordinance, 1984.**

(2) It shall come into force at once.

2. *Amendment of section 3.*—In section 3 of the Orissa Development Authorities Act, 14 of 1982 (hereinafter referred to as the principal Act),—

(i) in Sub-section (5), after clause (b) the following proviso shall be inserted, namely :—

“Provided that the State Government may appoint a part-time Vice-Chairman for a period not exceeding two months during the vacancy caused due to the absence of the whole time Vice-Chairman to avoid dislocation in the functioning of the Authority.” ;

(ii) Sub-section (6) shall be substituted by the following sub-section namely :—

“(6) The members appointed under clause (c) to (f) of Sub-section (5) may either be whole-time or part-time members.”

3. *Amendment of section 5.*—In section 5 of the principal Act, in Sub-section (2) for clause (a) the following clause shall be substituted, namely :—

“(a) The President, who shall be appointed by the State Government ;

(a-1) The Vice-Chairman, member *ex-officio*.”

4. *Amendment of section 91*—In section 91 of the principal Act, in Sub-section (1) after the words “such permission, approval or sanction has been granted”, the following words, figures, letter and brackets shall be inserted, namely :—

“or any development deemed to be a development undertaken, carried out or completed without a permission as referred to in Section 15 under clause (b-1) of Sub-section (2) of Section 128”.

5. *Amendment of section 128*—In Section 128 of the principal Act, in Sub-section (2), after clause (b), the following clause shall be inserted, namely :—

“(b-1) Any work or construction or reconstruction of building undertaken, carried out or completed in contravention of Sections 247 to 251 and Chapter XVII of the Orissa Municipal Act 23 of 1950 or any rules, bye-laws or regulation made thereunder in force at the relevant point of time or any orders made or permission granted in respect thereof within the whole or part of development area and to which the provisions of clause (b) do not apply, shall be deemed to be a development undertaken, carried out or completed without a permission as referred to in section 15”.

Published in the *Orissa Gazette*, (Ext.), No. 2260, dated December, 12 1984

THE ORISSA MUNICIPAL COUNCILS (POSTPONEMENT OF ELECTIONS) (SECOND AMENDMENT) ORDINANCE, 1984

ORISSA ORDINANCE NO. 14 OF 1984

An Ordinance to provide for the postponement of Election to Bhubnashwar Municipal Council.

Whereas the Legislature of the State of Orissa is not session ;

And whereas the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action for the postponement of Election to the Bhubaneswar Municipal Council of the State ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the constitution of India, the Governor of Orissa is pleased to make amendment to the Orissa Municipal Councils (Postponement of Elections) Act, 9 of 1984 and promulgate the following Ordinance in the Thirty-fifth Year of the Republic of India :—

1. *Short title and commencement*—(1) This Ordinance may be called the Orissa Municipal Councils (Postponement of Election) (Second Amendment) Ordinance, 1984

(2) It shall come into force to once.

2. *Amendment of section 3*—In clause (b) of section 3 of the Orissa Municipal Councils (Postponement of Elections) Act, 9 of 1984, for the words, figures and letters “the 31st December, 1984”, the words, figures and letters “the 31st December, 1985” shall be substituted.

Published in the *Orissa Gazette* (Ext.), dated 31st December, 1984

THE ORISSA MUNICIPAL COUNCILS (POSTPONEMENT OF ELECTIONS) (NO. 2) ORDINANCE, 1984

ORISSA ORDINANCE NO. 15 OF 1984

An Ordinance to provide for the postponement of Elections to certain Municipal Councils of the State.

Whereas, the Legislature of the State of Orissa is not in session ;

And whereas, the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action for the Postponement of Elections to certain Municipal Councils in the State ;

Now therefore, in exercise of the powers conferred by clause (1) of Article 213 of the constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fifth Year

of the Republic of India :—

1. *Short title and Commencement*—(1) This Ordinance may be called the Orissa Municipal Councils (Postponement of Elections No. 2) Ordinance, 1984.

(2) it shall come into force at once.

2. *Definitions*—(1) In this Ordinance, unless the context otherwise requires,—

(a) “Municipal Council” means a Municipal Council constituted under the Municipal Act and shall include Notified Area Council constituted thereunder ;

(2) Words and expressions used in this Act, but not defined herein, shall have the same meaning as assigned to them respectively, under the Municipal Act.

3 *Postponement of general election in Municipal Councils*—Notwithstanding anything contained in the Municipal Act or in any rules made or orders issued thereunder :—

(a) all proceedings or actions, excepting those action taken for delimitation of wards and reservation of seats for members of Scheduled Castes and Scheduled Tribes taken in furtherance of holding general elections for the reconstitution of Municipal Councils as specified in column (2) of the Schedule appended hereto are hereby cancelled ; and

(b) the general election for the reconstitution of the said councils shall be held in accordance with the provisions of the Municipal Act and the Rules made thereunder on such date, not being later than the 31st December, 1985, as may be fixed by the State Government and the elections so held, shall, for all purposes, be deemed to be a general election held under the said Act.

4. *Performance of the duties of Council and Chairman*—The persons or the body of persons as specified in Column (3) in respect of the corresponding Municipal Councils as mentioned in column (2) of the Schedule are hereby empowered to exercise all the powers and perform all the functions of the Councils and its Chairman under the provisions of the Municipal Act and Rules made thereunder, until otherwise ordered by the State Government, till the succeeding elected council and its Chairman take office or the 31st December, 1985, whichever is earlier.

5. *Repeal*—The Municipal Council (Holding of Election and Validation) Act, 22 of 1984 is hereby repealed.

SCHEDULE

Sl. No.	Name of the Council	Persons or body of persons empowered to exercise powers and perform the duties of Council and Chairman
(1)	(2)	(3)
1	Banki Notified Area Council ...	Subdivisional Officer, Banki
2	Bhadrak Notified Area Council ...	Subdivisional Officer, Bhadrak
3	Jaleswar Notified Area Council ...	Subdivisional Officer, Sadar Balasore

(1)	(2)	(3)
4	Kavisuryanagar Notified Area Council	... Subdivisional Officer, Chatrapur
5	Aska Notified Area Council	... Subdivisional Officer, Bhanjanagar
6	Barapali Notified Area Council	... Subdivisional Officer, Bargarh
7	Brajarajanager Notified Area Council	... Subdivisional Officer, Jharsuguda
8	Patnagarh Notified Area Council	... Subdivisional Officer, Patnagarh
9	Gunpur Notified Area Council	... Subdivisional Officer, Gunpur
10	Joda Notified Area Council	... Subdivisional Officer, Champua
11	Bolangir Municipal Council	... District Magistrate, Bolangir
12	Puri Municipal Council	... District Magistrate, Puri
13	Barbil Municipal Council	... Subdivisional Officer, Champua
14	Rourkela (civil township) Notified Area Council.	... Council appointed in H. & U. D. Department notification No. 49888-HUD. dated 22nd November, 1983, read with No. 45364-HUD. dated 22nd November, 1984.

THE ORISSA DEVELOPMENT AUTHORITIES (AMENDMENT) ACT, 1984

The following Act of the Orissa Legislative Assembly, having been assented to by the Governor on the 29th May, 1984, was published in the *Orissa Gazette (Ext.)*, No. 973, dated June 6, 1984.

ORISSA ACT 15 of 1984

An Act to amend the Orissa Development Authorities Act, 1982

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows:—

1. (1) This Act may be called the **Orissa Development Authorities (Amendment) Act, 1984**.

(2) It shall come into force at once.

2. **Amendment of section 98**—In section 98 of the Orissa Development Authorities Act, 1982, (Orissa Act 14 of 1982) to Sub-section (1), the following proviso shall be added, at the end, namely:—
“Provided that the Authority or any person authorised by it in this behalf shall not withdraw any legal proceeding pending in—

(i) Criminal Court without the consent of that court, and.

(ii) Civil Court without the leave of that court, wherever it is necessary under the provisions of the Code of Civil Procedure, 1908 (Act 5 of 1908).”

THE ORISSA APPROPRIATION (VOTE ON ACCOUNT) ACT, 1985

The following Act of the Orissa Legislative Assembly, having been assented to by the Governor on the 27th March 1985, was published in the *Orissa Gazette (Extraordinary)*, dated March 28, 1985.

ORISSA ACT 2 OF 1985

An Act to provide for the withdrawal of certain sums from and out of the consolidated fund of the State of Orissa for the services of a part of the Financial Year 1985-86

Be it enacted by the Legislature of the State of Orissa in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the **Orissa Appropriation (Vote on Account) Act, 1985.**

(Text omitted)

Published in the *Orissa Gazette (Ext.)*, No. 1708, dated September 27, 1984.

COMMERCE & TRANSPORT (TRANSPORT) DEPARTMENT

S.R.O. No. 1238/84—(the 25th September, 1984).—In pursuance of the powers conferred by section 110 of the **Motor Vehicles Act, 1939** (4 of 1939) and in partial modification of the notification of the Government of Orissa in the Transport Department No. 3411-TAR-4/58-T, dated the 4th June, 1958, the State Government do hereby constitute the **First Motor Accident Claims Tribunal** for the district of **Boudh-Khandamala** and appoint the District and Session Judge Boudh-Khandamala as the member thereof for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to persons arising out of the use of Motor Vehicles, or damages to any property of a third party so arising, or both.

Published in the *Orissa Gazette (Ext.)*, No. 342, dated February 25, 1985.

COMMERCE AND TRANSPORT (TRANSPORT) DEPARTMENT

S.R.O. No. 131/85—(the 19th/20th February, 1985).—Whereas the draft of certain rules further to amend the Orissa Motor Vehicles Rules, 1940 was published as required by sub-section (1) of section 133 of the Motor Vehicles Act, 1939 (4 of 1939), in the Extraordinary issue No. 2171 of the *Orissa Gazette*, dated the 12th December, 1984, in the notification of the Government of Orissa in the Commerce and Transport (Transport) Department No. 190—LC-H-Gen-9/84-T, dated the 6th December, 1984, bearing S.R.O. No. 1415/84, inviting objections and suggestions from all persons likely to be affected thereby till the expiry of a period of thirty days from the date of publication of the said notification;

And whereas no objections have been received by the State Government in respect of the said draft.

Now, therefore, in exercise of the powers conferred by sections 21 and 41 of the said Act, the State Government do hereby make the following rules further to amend the Orissa Motor Vehicles Rules, 1940, namely :—

1. (i) These rules may be called the **Orissa Motor Vehicles (Amendment) Rules, 1985.**

(2) They shall come into force on the date of their publication in the official Gazette

2. In the Orissa Motor Vehicles Rules, 1940 (hereinafter referred to as the said rules), in rule 4 for clause (i) the following clause shall be substituted, namely :—

“(i) in the case of Panposh Subdivision and Bonai Subdivision in Sundargarh district, the Regional Transport Officer, Rourkela and in the case of Police district of Bhubaneswar, the Regional Transport Officer, Bhubaneswar, and”.

3. In rule 25 of the said rules for clause (i) the following clause shall be substituted, namely :—

“(i) in the case of Panposh Subdivision in Sundargarh district, the Regional Transport Officer, Rourkela and in the case of Police district of Bhubaneswar, the Regional Transport Officer, Bhubaneswar, and”.

Published in the *Orissa Gazette*, (Ext.), No. 909, dated May 28, 1984.

HOUSING & URBAN DEVELOPMENT DEPARTMENT

S. R. O. No. 550/84.—(*The 25th May, 1984*).—In exercise of the powers conferred by Section 21 of the Orissa House Rent Control Act, 1967 (Orissa Act 4 of 1968), the State Government do hereby make the following rules further to amend the Orissa House Rent Control Rules, 1968, namely :—

1. (1) These rules may be called the **Orissa House Rent Control (Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Orissa House Rent Control Rules, 1968, Form “E”, the following Form shall be substituted, namely :—

FORM “E”

Register of Applications under the Orissa House Rent Control Act, 1967

Date of application	Serial Number	Name and address of the applicant	Name and address of the opposite party	Description of the house
(1)	(2)	(3)	(4)	(5)
Section of the Statute, under which the application is made	Relief sought for	Mode of disposal with date		
		Transferred to other Courts	Result	With or without contest/on admission/on compromise
(6)	(7)	(8)	(9)	(10)
Number of days taken for hearing	Number and year of appeal	Date of disposal of the appeal	Result of the appeal	Remarks
(11)	(12)	(13)	(14)	(15)

Published in the *Orissa Gazette (Ext.)*, No. 344, dated February 25, 1985

FOOD & CIVIL SUPPLIES DEPARTMENT

S. R. O. No. 124/84 —(*the 14th February, 1985*)—In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with the notifications of the Government of India in the Ministry of Agriculture and Irrigations (Department of Food) G.S.R. 800, dated the 9th June 1978 and in the Ministry of Agriculture (Department of Food) G.S.R. 452 (E), dated the 25th October 1972, published in the *Gazette of India* Extraordinary, Part II, Section 3, Sub-section (i) dated the 9th June 1978 and the 25th October, 1972, respectively and with the prior concurrence of the Government of India, the State Government do hereby make the following order further to amend the Orissa Sugar Dealers Licensing Order, 1963, namely:—

1 (i) This Order may be called the **Orissa Sugar Dealers Licensing (Amendment) Order, 1985**.

(ii) It shall come into force on the date of its publication in the Official Gazette,

2. In the Orissa Sugars Dealers' Licensing Order, 1963 (hereinafter referred to as the said order) in clause 2,

for the existing sub-clause (f), the following clause shall be substituted, namely:—“(f) “wholesaler” means a dealer who purchases sugar directly from sugar mills or from another wholesaler for selling stocks either to retailers or to consumers including bulk consumers or to both”.

3. In the said order, in Form B, for the existing paragraphs 6-A and 6-B, the following paragraphs shall be substituted, namely:—

“6A. The licensee who is a wholesaler shall not sell sugar to another wholesaler without physical delivery of stock by him to that other wholesaler.

6B. The licensee who is a retailer shall not sell sugar to any dealer, whether a wholesaler or a retailer ”

Published in the *Orissa Gazette (Ext.)*, No. 1983, dated November 22, 1984.

COMMERCE AND TRANSPORT (TRANSPORT) DEPARTMENT

S. R. O. No 1348/84—(*the 13th/14th November, 1984*).—Whereas the draft of certain rules further to amend the Orissa Motor Vehicles Rules, 1940, was published as required by sub-section (1) of section 133 of the Motor Vehicles Act, 1939 (4 of 1939) in the extraordinary issue of the *Orissa Gazette* No 2424, dated the 8th August 1984 in the notification of the Government of Orissa in the Commerce and Transport (Transport) Department No. 13161-T., dated the 31st July/1st August 1984 bearing S. R. O. No. 1047/84, inviting objections and suggestions from all persons likely to be affected thereby till the expiry of a period of thirty days from the date of publication of the said notification;

And whereas, no objections or suggestions has been received by the Government in the Commerce and Transport (Transport) Department in respect of the said draft;

Now, therefore, in exercise of the powers conferred by section 41 of the said Act, the State Government do hereby make the following rules further to amend the Orissa Motor Vehicles Rules, 1940, namely :—

1. (1) These rules may be called the **Orissa Motor Vehicles (Sixth Amendment) Rules, 1984.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. (1) In rule 35 of the Orissa Motor Vehicles Rules, 1940, to sub-rule (f) the following shall be added at the end, namely :—

(2) "In addition, a fee of rupees twenty shall be charged for every inspection of Motor Vehicles other than Transport Vehicles for the purpose of grant or renewal of the certificate of registration."

Published in *the Orissa Gazette (Ext.)*, No. 64 dated January 16, 1985.

COMMERCE AND TRANSPORT (TRANSPORT) DEPARTMENT

S. R. O. No 22/85—(27th January, 1985)—In exercise of the powers conferred by section 110 of the Motor Vehicles Act, 1939 (4 of 1939) and in partial modification of the notification of the Government of Orissa in the defunct Transport Department No. 3411—TAR-4/58, dated the 4th June, 1958 and in supersession of the Commerce and Transport (Transport) Department notifications No. 10304-T., dated the 9th July, 1981 and No. 9821-T., dated the 8th June 1982, the State Government do hereby constitute the **Second Motor Accident Claims Tribunal, Sambalpur** for the areas comprised within the districts of Sambalpur, Balangir, Keonjhar, Dhenkanal and Sundargarh for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to persons arising out of the use of Motor Vehicles, or damages to any property of a third party so arising, or both.

The respective functions of the existing Tribunals and the Second Tribunal shall be that the claims cases shall be filed and made ready in the Courts of the respective Tribunals for the districts of Sambalpur, Balangir, Keonjhar, Dhenkanal and Sundargarh and the Second Motor Accident Claims Tribunal, Sambalpur shall hear and dispose of these case.

Published in *the Orissa Gazette (Ext.)*, No. 1983, dated, November 22, 1984.

COMMERCE AND TRANSPORT (TRANSPORT) DEPARTMENT

S. R. O No. 1345/84—(the 13th/14th November, 1984).—Whereas the draft of certain rules further to amend the Orissa Motor Vehicles Rules, 1940 was published as required by sub-section (1) of section 133 of the Motor Vehicles Act, 1939 (4 of 1939) in the extraordinary issue No. 1337 of the *Orissa Gazette*, dated the 26th July 1984 under the notification of the Government of Orissa in the Commerce and Transport (Transport) Department No. 12368-T., dated the 19th July 1984 bearing S. R. O. No. 983/84, inviting objections and suggestions from all persons likely to be affected thereby till the expiry of a thirty days from the date of publication of the said notification ;

And whereas no objections or suggestions have been received by the

Secretary to Government in the Commerce and Transport (Transport) Department in respect of the said draft ;

Now, therefore, in exercise of the powers conferred by section 68 of the said Act, the State Government do hereby make the following rules further to amend the Orissa Motor Vehicles Rules, 1940, namely :—

1. (1) These rules may be called the **Orissa Motor Vehicles (Third Amendment) Rules, 1984**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Orissa Motor Vehicles Rules, 1940, in rules 59-B and 59-C for the words and comma "sixteen, twenty four, the words and comma "fifteen, twenty-three" shall be substituted.

Published in the *Orissa Gazette (Extr.)* dated April 20, 1985

COMMERCE & TRANSPORT (TRANSPORT) DEPARTMENT

S. R. O. No. 189/85—(the 10th April 1985)—Whereas, a draft of certain rules further to amend the Orissa Motor Vehicle (Accidents Claims Tribunals) Rules, 1960 was published as required by sub-section (1) of section 133 of the Motor Vehicles Act, 1939 (4 of 1939), in an extraordinary issue of the *Orissa Gazette* No. 1777, dated the 11th October 1984 in the notification of the Government of Orissa in the Commerce and Transport (Transport) Department No. 16109-T, dated the 25th September 1984, bearing S. R. O. No. 1245/84, inviting objections and suggestions from all persons likely to be affected thereby till the expiry of a period of thirty days from the date of publication of the said notification;

And whereas, objections and suggestions received in respect of the said draft have been considered by the State Government.

Now, therefore, in exercise of the powers conferred by section 111-A read with the provisions contained in Chapter VII-A of the said Act, the State Government do hereby make the following rules further to amend the Orissa Motor Vehicles (Accidents Claims Tribunals) Rules, 1960, namely :—

1. (1) These rules may be called the **Orissa Motor Vehicles (Accidents Claims Tribunals) (Amendment) Rules, 1985**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Orissa Motor Vehicles (Accidents Claims Tribunals) Rules, 1960 (hereinafter referred to as the said rules), before the existing rule 1, the following heading shall be inserted, namely :—

"CHAPTER I Preliminary"

3. In the said rules,—

(i) in rule 2, after clause (b), the following new clause shall be inserted, namely :—

"(b-1) 'Form' means a form appended to these rules";

(ii) after rule 2, the following heading shall be inserted, namely :—

"CHAPTER II Claims under section 110-A of the Act (Claims based on fault)"

4. In the rules, in rule 3, for the words "in the Form appended to these rules" the words and letters "in Form COF" shall be substituted.

5. In the said rules, after rule 23, the following new chapter shall be inserted, namely :—

“CHAPTER III**Claims under Chapter VII-A of the Act****(Claims without fault in certain cases)**

24. *Application for claim*—Every application in the case of a claim without fault under Chapter VII-A of the Act shall be made in Form CWF.

25. *Fees*.—Every application for a claim under Chapter VII-A shall be accompanied by a fee of ten rupees in the form of court-fee stamp.

26. *Application not to be rejected on technical flaw*—The Claims Tribunal shall not reject any application made as per the provisions of Chapter VII-A of the Act on the ground of any technical flaws, but shall give notice to the applicant and get the defect rectified.

27. *Notice to owner and insurer*—

(1) The Claims Tribunal shall give notice to the owner and the insurer, if any of the motor vehicle involved in the accident, directing them to appear on a date not later than ten days from the date of issue of notice. The date fixed for such appearance shall also be not later than fifteen days from the receipt of the claim application.

(2) The notice under sub-rule (1) shall state that in case the owner or the insurer, if any, fails to appear on the date appointed, the Tribunal will proceed *ex parte* on the presumption that they have no contention to make against the award of compensation.

28. *Manner of adjudication claims*—The Claims Tribunal shall, for the purpose of adjudicating and awarding a claim under Chapter VII-A of the Act, follow the procedure of summary trial contained in the Code of Criminal Procedure, 1973.

29. *Award of claim*—The Claims Tribunal shall obtain whatever information is necessary from the Police, Medical and other authorities and proceed to award the claim whether the parties who were given notice, appear or not, on the appointed date.

30. *Basis to award the claim*—The Claims Tribunal shall proceed to award the claim on the basis of—

- (i) oral evidence
- (ii) certified copy of the Register of Motor Vehicle registered in the district and/or registration certificates of the Motor Vehicles involved in the accident.
- (iii) insurance certificate or policy relating to the insurance of the Motor Vehicle against the Third Party risk;
- (iv) copy of First Information Report;
- (v) post-mortem certificate or certificate of injury from the Medical Officer;
- (vi) the nature of the treatment given by the Medical Officer who has examined the victim; and
- (vii) bed Head Ticked and/or discharge certificate of the hospital or dispensary where the injured/the deceased received treatment.

31. *Limitation for disposal of application*—The Claims Tribunal, before whom an application for compensation under Chapter VII-A of the Act has been made shall dispose of such application within forty-five days from the date of receipt of such application.

32. *Payment of compensation by Claims Tribunal*—(1) The procedure of adjudicating the liability and award of compensation may be set apart from the procedure of disbursement of compensation to the legal heirs in case of death.

(2) Where the Claims Tribunal feels that the actual payment to the claimant is likely to take some time because of the identification and determination of legal heirs of the deceased, the Claims Tribunal may call for the amount of compensation awarded to be deposited with the Tribunal and then proceed with the identification of the legal heirs for deciding the payment of compensation to each of the legal heirs."

6. In the said rules, in the form prescribed under rule 3—

(i) for the existing headline the following headlines shall be substituted, namely :—

"FORM COF

Form of Application for Compensation on Fault

[See rule 3]";

(ii) in the said form after serial 29 the following serial including the entry shall be inserted, namely :—

"30 Whether any claims under section 92-A of the Motor Vehicle Act, 1939 has been made and if so, its present position."

7. In the said rules, after Form COF as amended by rule 6 of these rules, the following form shall be added, namely :—

"FORM CWF

Form of Application for Compensation Without Fault

[See rule 24]

To

The Motor Accidents Claims Tribunal,

I, _____, son/daughter/wife widow of _____ residing at _____

having being injured in motor vehicle accident hereby apply for the grant of compensation for the injury sustained. Necessary particulars in respect of the injury, vehicle, etc. are given below :

I, _____ son/daughter/wife/widow of _____ resident at _____ hereby apply as a legal representative/agent for the grant of compensation on account of death of Shri/Kumari/Shrimati _____, son/daghter/wife/widow of Shri/Shrimati _____ who died/was injured, in a motor vehicle accident.

Necessary particulars in respect of the deceased/injured, the vehicle, etc., are given below ;

1. Name and father's name of the person injured/dead (Husband's name in the case of married woman and widow) _____
2. Full address of the person injured/dead _____
3. Age of the person injured/dead _____

4. Occupation of the person injured/dead _____

5. Place, date and time of the accident _____

6. Name and address of the Police-Station in whose Jurisdiction the accident took place or was registered _____

7. Was the person in respect of whom compensation is claimed travelling by the vehicle involved in the accident. If so, give name of place of starting of journey and destination _____

8. Nature of injuries sustained and continuing effect, if any, of the injury _____

9. Name and address of the Medical Officer/Practitioner, if any, who attended on the injured/dead _____

10. Nature of the injury and whether it caused permanent disablement or not _____

11. Registration number and the type of the vehicle involved in the accident _____

12. Name and address of the owner of vehicle _____

13. Name and address of the insurer of the vehicle _____

14. Number and details of certificate of insurance or the Policy of Insurance _____

15. Has any claim been lodged with the owner/insurer and if so, with what result _____

16. Name and address of the applicant _____

17. Relationship with the deceased _____

18. Whether he has been paid any compensation out of the Solutium Fund _____

19. Any other information that may be necessary or helpful in the disposal of the claim _____

I, _____ solemnly declare that the particulars given above are true and correct to the best of my knowledge.

Signature of thumb impression
of the applicant"

Published in the *Orissa Gazette (Ext.)*, No. 138, dated January 30, 1985.

FOOD AND CIVIL SUPPLIES DEPARTMENT

S R. O. No 30/85—(the 14th January 1985).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the Order of the Government of India in the Ministry of Agriculture and Irrigation (Deptt. of Food) No. G. S. R. 800, dated the 9th June 1978, published in the *Gazette of India*, Part II, Section-3, Sub-Section (i), dated the 17th June 1978, the State Government do hereby make the following order to amend the Orissa Rice and Paddy Control Order, 1965, namely:—

1. (i) This order may be called the **Orissa Rice and Paddy Control (Amendment) Order, 1984.**

(ii) It shall come into force on the date of its publication in the official Gazette.

2. In the Orissa Rice and Paddy Control Order, 1965 (hereinafter referred to as the said Order), in clause 2—

(i) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) ‘Dealer’ means a person engaged in the business of purchase or sale of rice or paddy or rice and paddy taken together in quantities exceeding five quintals or of storage for sale of rice or paddy or rice and paddy taken together in quantities exceeding ten quintals at any time but does not include a cultivator or land-lord in respect of rice or paddy being the produce of the land cultivated or owned by him”;

(ii) for sub-clauses (h), (i) and (j) the following sub-clauses shall respectively be substituted, namely:—

“(h) ‘Purchase or sale in wholesale quantity’ means purchase or sale of rice or paddy or rice and paddy taken together by any person

either on his own behalf or another or as a commission agent or as an arhatiya, in quantities exceeding fifty quintals in any calendar day ;

(i) 'retailer' means a person engaged in the business of purchase or sale of rice or paddy or rice and paddy together exceeding five quintals but not exceeding fifty quintals in any calendar day or of storage for sale of rice or paddy or rice and paddy taken together at any time exceeding ten quintals but not exceeding fifty quintals ;

(j) 'Storage in wholesale quantities' means storage of rice or paddy or rice and paddy taken together in quantities exceeding fifty quintals at any time inside the State of Orissa"; and

(iii) after sub-clause (k) the following sub-clause shall be inserted, namely :—

(1) "wholesaler" means a person engaged in the business of purchase, sale or storage in wholesale quantity."

3. In the said Order, in sub-clause (2) of clause 3, the words "excluding the border area and exceeding two quintals inside the border area" shall be deleted.

4. In the said Order for clause 5, the following clause shall be substituted, namely :—

"5. Period of Licence and fees chargeable :—

(1) Every licence granted under this order shall, unless sooner cancelled, be valid for a year or part of a year, on the 31st day of March subsequent to its issue, and may be renewed for a period of one year at a time on an application within thirty days before the date of expiry of such licence.

(2) The fees chargeable in respect of each licence shall be as specified below :—

	For wholesaler	For retailer
For issue of licence	Rs. 150	Rs. 50
For renewal of licence	Rs. 75	Rs. 25
For issue of duplicate licence	Rs. 50	Rs. 30

(3) A separate licence shall be obtained for each place of business.

(4) Where a licence issued under this order is lost, destroyed or defaced, the licensee shall immediately obtain a duplicate thereof from the licensing authority on payment of fees specified in sub-clause (2)".

5. In Form B of the said order—

(i) in the opening paragraph for the word "wholesale" the words and symbol "wholesale/retail" shall be substituted ;

(ii) in paragraph 8, for the words "wholesale quantity" the words and symbol "wholesale/retail quantity" shall be substituted ; and (iii) in paragraph 10 for the figure, letters and word "30th September", the figures, letters and word "31st March" shall be substituted.

6. Notwithstanding anything contained in the said order a licence granted prior to the commencement of the Orissa rice and Paddy Control (Amendment) Order 1984, which has already expired on the 1st October 1984 shall be renewable within sixty days from the date of such commencement.

THE ORISSA APARTMENT OWNERSHIP (AMENDMENT) ORDINANCE, 1984

Published in the *Orissa Gazette (Extr.)* dated 20th January, 1984.

ORISSA ORDINANCE NO. 2 OF 1984

An Ordinance to amend the Orissa Apartment Ownership Act, 1982

Whereas the Legislature of the State of Orissa is not in session ;

And whereas, the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Apartment Ownership Act, 1982 in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fourth Year of the Republic of India :—

1. *Short title and commencement.*—(1) The Ordinance may be called the **Orissa Apartment Ownership (Amendment) Ordinance, 1984.**

(2) It shall come into force at once.

2. *Amendment of Section 13.*—In Section 13 of the Orissa Apartment Ownership Act, 1982 (Orissa Act 1 of 1984), in Sub-section (5), for the words “in any Court of law” the words “in any Civil Court” shall be substituted.

B. N. PANDE

Governor of Orissa

Dated the 19th January 1984

THE ORISSA ENTERTAINMENTS TAX (SECOND AMENDMENT) AMENDMENT ORDINANCE, 1984

Published in the *Orissa Gazette (Extra.)*, dated January 20, 1984.

ORISSA ORDINANCE, NO. 1 OF 1984

An Ordinance to amend the Orissa Entertainments Tax (Second Amendment) Act, 1982:

Whereas the Legislature of the State of Orissa is not in session ;

And whereas the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Entertainments Tax (Second Amendment) Act, 1982 in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-fourth year of the Republic of India :—

1. *Short title and commencement.*—(1) This Ordinance may be called the **Orissa Entertainments Tax (Second Amendment) Amendment Ordinance, 1984.**

(2) It shall come into force at once.

2. *Amendment of section 2.*—For section 2 of the Orissa Entertainments Tax (Second Amendment) Act, 1982 (Orissa Act 17 of 1982), the following section shall be substituted, namely :—

“2. In section 4-A of the Orissa Entertainments Tax Act, 1946 (Orissa Act (5 of 1946), (hereinafter referred to as the principal Act), for sub-section (1) the following sub-section shall be substituted, namely :—

(1) In the case of all cinematograph exhibitions, except those exempted under section 8 from payment of tax, there shall be levied and paid to the State Government a tax in respect of every show by the proprietor of

the cinema house at the rate specified below :

1. Shows held in any local area under a Municipal Council or a Notified Area Council, constituted under the Orissa Municipa Act, 1950 (Orissa Act 23 of 1950), having a population of fifty thousand or more,

- | | | |
|---|-----|--|
| (a) Where the seating capacity of the cinema house does not exceed eight hundred. | ... | Twenty-five rupees |
| (b) Where the seating capacity of the cinema house exceeds eight hundred. | ... | Twenty-five rupees plus two rupees for every additional one hundred seats or part thereof. |
| 2. Shows held in other places.— | | |
| (a) Where the seating capacity of the cinema house does not exceed four hundred. | ... | Ten rupees |
| (b) Where the seating capacity of the cinema house exceeds four hundred. | ... | Ten rupees plus one rupee for every additional one hundred seats or part thereof |

THE ORISSA UNIVERSITY LAWS (AMENDMENT) ACT, 1983.

The following Act of the Orissa Legislature Assembly having been assented to by the Governor on the 2nd June 1984 was published in the *Orissa Gazette (Ext.)*, No. 993, dated June 8, 1984.

ORISSA ACT 16 OF 1984.

An Act to amend the Utkal University Act, 1966, the Berhampur University Act, 1966, the Sambalpur University Act, 1966 and Shri Jaganath Sanskrit Vishwavidyalaya Act, 1981.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—This Act may be called the *Orissa University Laws (Amendment) Act, 1983.*

2. *Amendment of Section 9 of Orissa Acts 20, 21 & 22 of 1966.*—In section 9 of the Utkal University Act, 1966 (Orissa Act 20 of 1966), the Berhampur University Act, 1966 (Orissa Act 21 of 1966), and the Sambalpur University Act, 1966 (Orissa Act 22 of 1966), in sub-section (1), after clause (s-1), the following new clauses shall be inserted, namely :—

“(s-2) One person to be elected by the professors, Readers and Lecturers of all the Post Graduate Departments of the University excepting the Heads of Departments, from among themselves ;

(s-3) One person to be elected by the non-teaching employees of the University from among themselves ;”

3. *Amendment of Section 9.*—In Section 9 of Shri Jaganath Sanskrit Vishwavidyalaya Act 1981 (Orissa Act 31 of 1981), in Sub-section (1), after clause (s), the following new clause shall be inserted, namely :—

“(s-1) One person to be elected by the non-teaching employees of the Vishwavidyalaya from among themselves ;”

THE ORISSA APPROPRIATION (NO. 4) ACT, 1984

The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 14th September 1984, was published in the *Orissa Gazette (Ext.)*, No. 1625, dated September 15, 1984.

ORISSA ACT 19 OF 1984

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated fund of the State of Orissa for the services of the Financial Year, 1984-85.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title.*—The Act may be called the *Orissa Appropriation (No. 4) Act, 1984.*

(Text omitted)

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1984

The following Act of Orissa Legislative Assembly having been assented to by the Governor on the 2nd April, 1984 was published in the *Orissa Gazette (Ext.)*, No. 504, dated April 2, 1982.

ORISSA ACT NO. 8 OF 1984

An Act to amend the Orissa Municipal Act, 1950.

Be it enacted by the State of Orissa in the Thirty-fifth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the *Orissa Municipal (Amendment) Act, 1984.*

(2) It shall be deemed to have come into force on the 6th day of December, 1983

2. *Amendment of Section 8.*—For Section 8 of the Orissa Municipal Act, 1950 (Orissa Act 25 of 1950) (hereinafter referred to as the principal Act), the following section shall be substituted, namely :—

“8. There shall be established for each Municipality a body to be called the Municipal Council shall consist of such number of councillors, not being more than thirty nor less than eleven, as the State Government may specify in the notification constituting the Municipality.”

3. *Amendment of Section 10.*—For Section 10 of the principal Act including its marginal heading, the following section and the marginal heading shall be substituted, namely :—

“10 *Councillors of the Municipal Council to be elected*—All the councillors of a Municipal Council shall be elected in the manner provided under this Act and the prescribed rules ”

4. *Amendment of Section 12.*—In Section 12 of the principal Act,—

(a) in sub-section (1) the words “the Chairman and” shall be deleted ; and

(b) sub-section (4-a) shall be deleted.

5. *Amendment of section 14.*—In Section 14 of the principal Act, sub-section (1) shall be deleted.

6. *Amendment of Section 16.*—In Section 16 of the principal Act,—

(a) in sub-section (1), for the words “as Chairman or Councillor” the words “as a Councillor” shall be substituted ;

(b) in sub-section (2)—

(i) the words “a Chairman or” shall be deleted ; and

(ii) for the words and commas “his Chairmanship or Councillorship, as the case may be”, the words “his Councillorship” shall be substituted.

7. *Amendment of Section 17.*—In Section 17 of the principal Act,—

(a) in the opening lines, the words "a Chairman shall be deleted ; and

(b) in clause (i), words and comma "in the case of a Councillor", shall be deleted.

8. *Amendment of Section 18.*—In Section 18 of the principal Act, for the words, "as a Chairman or" as a Councillor" wherever they occur, the words "as a councillor" shall be substituted,

9. *Amendment of Section 27.*—In Section 27 of the principal Act, the words "a Chairman or" shall be deleted.

10. *Amendment of Section 29.*—In Section 29 of the Principal Act, the words "the Chairman or a" shall be deleted

11. *Amendment of Section 37.*—In Section 37 of the principal Act, the words "Chairman or" wherever, they occur, shall be deleted.

12. *Amendment of Section 38.*—In Section 38 of the principal Act, the words "Chairman or" wherever they occur, shall be deleted.

13. *Amendment of Section 38-A.*—In Section 38-A of the principal Act, the words "Chairman or" wherever they occur, shall be deleted.

14. *Amendment of Section 41.*—In Section 41 of the principal Act,—

(a) in the marginal heading, the words "the Chairman and the" shall be deleted ;

(b) in sub-section (1), (2) and (3), the words "Chairman or" wherever they occur, shall be deleted ;

(c) in sub-section (4) the words "Chairman and" wherever they occur, shall be deleted ; and

(d) in sub-section (6), the words "the Chairman and" shall be deleted.

15. *Amendment of Section 43.*—In section 43 of the principal Act, after the words and comma "A councillor" the words "not being a Chairman" shall be inserted.

16. *Amendment of Sections 47 and 47-A.*—For Sections 47 and 47-A of the principal Act, including the marginal headings thereof, the following Section and the marginal heading shall be substituted, namely :—

"47. *Election of Chairman and Vice-Chairman.*—(1) At the first meeting of a Municipal Council, called at the instance of the District Magistrate, a Chairman and a Vice-Chairman shall be elected by the councillors from among themselves.

(2) Such election shall be held within thirty days from the date of publication of the names of councillors under Section 39 or, in the case of a vacancy due to any cause other than the expiry of the term of office of the Chairman or Vice-Chairman, within thirty days from the date of occurrence of such vacancy, and the District Magistrate or an Officer not below the rank of an Additional District Magistrate authorised by the District Magistrate in that behalf, shall preside over the meeting held for such election.

(3) If at an election held under sub-section (1), no Chairman or Vice-Chairman is elected, a fresh election shall be held within thirty days from the date of the first election.

(4) If the councillors fail to elect a Chairman or a Vice Chairman within the period specified in sub-section (3), the State Government may fill up these offices by appointment until such time as the Municipal Council

elect such Chairman or Vice-Chairman in the prescribed manner :

Provided that no salaried servant of Government shall be eligible for such appointment."

17. *Amendment of Section 48.*—For Section 48 of the principal Act, the following section shall be substituted, namely :—

"48. The Chairman or the Vice-Chairman shall be deemed to have vacated his office—

(a) on the expiry of his term of office as a Councillor of the Municipal Council or on his otherwise ceasing to be such Councillor ; or

(b) on his election as Chairman or Vice-Chairman of any other Municipal Council".

18. *Amendment of Sections 49 and 49-A.*—For Section 49 and 49-A of the principal Act, the following section shall be substituted, namely :—

"49. (1) On a vacancy occurring in the office of the Chairman or Vice-Chairman by reason of death, resignation, removal or otherwise, the District Magistrate shall, as soon as may be after occurrence of the vacancy, convene a meeting of the councillors who shall elect in the prescribed manner a person from among themselves to fill up the vacancy.

(2) All such meetings shall be presided over by the District Magistrate or by such officer as may be authorised by him in that behalf.

(3) The provisions contained in sub-sections (3) and (4) of Section 47 shall apply in respect of such election."

19. *Insertion of Section 50.*—After Section 49 of the principal Act, the following section including the marginal heading shall be inserted, namely :—

"50. *Status of appointed Chairman or Vice-Chairman.*—Notwithstanding anything contained in Section 8, every Chairman or Vice-Chairman appointed under sub-section (4) of Section 47 shall, if he is not a Councillor of the Municipal Council of which he has been appointed Chairman or Vice-Chairman, from the date of his appointment during the term of his office, enjoy all rights and privileges and be subject to all liabilities and disabilities of a Councillor of such Municipal Council."

20. *Amendment of Section 52.*—In Section 52 of the principal Act,—

(a) in sub-section (2) for the words "State Government" the words "Municipal Council" shall be substituted ; and

(b) in sub-section (4) for the words and commas "State Government or the Municipal Council, as the case may be," the words "Municipal Council" shall be substituted.

21. *Amendment of Section 54.*—In Section 54 of the principal Act, in the proviso to sub-section (1) for the words "within two years from the date of election or nomination" the words "within one year from the date of election or appointment" shall be substituted.

22. *Repeal and Saving.*—(1) The Orissa Municipal (Amendment) Ordinance, Orissa Ordinance No. 15 of 1983) 1983 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE ORISSA DEVELOPMENT AUTHORITIES (AMENDMENT) ACT, 1985

The following Act of the Orissa Legislature received the assent of the Governor and was published in the *Orissa Gazette, Extraordinary*, dated 23rd April, 1985,

ORISSA ACT NO. 4 OF 1985

An Act to amend the Orissa Development Authorities Act, 1982.

Be it enacted by the Legislature of the State of Orissa in the Thirty-sixth Year of the Republic of India, as follows :—

1. *Short title and commencement*.—(1) This Act may be called the Orissa Development Authorities (Amendment) Act, 1985.

(2) It shall be deemed to have come into force on the 15th day of December, 1984.

2. *Amendment of section 3*.—In section 3 of the Orissa Development Authorities Act (14 of 1982) (hereinafter referred to as the principal Act),—

(i) in sub-section (5), after clause (b) the following proviso shall be inserted, namely:—

“Provided that the State Government may appoint a part-time Vice-Chairman for a period not exceeding two months during the vacancy caused due to the absence of the whole time Vice-Chairman to avoid dislocation in the functioning of the Authority,”.

(ii) sub-section (6) shall be substituted by the following sub-section, namely :—

“(6) The members appointed under clauses (c) to (f) of sub-section (5) may either be whole or part-time members.”

3. *Amendment of section 5*.—In section 5 of the principal Act, in sub-section (2), for clause (a) the following clause shall be substituted, namely :—

“(a) The President, who shall be appointed by the State Government ;

(a-1) The Vice-Chairman, member ex-officio ;”

4. *Amendment of section 91*.—In section 91 of the principal Act, in sub-section (1) after the words “such permission, approval or sanction has been granted”, the following words, figures, letters and brackets shall be inserted, namely:—

“or any development deemed to be a development undertaken, carried out or completed without a permission as referred to in Section 15 under clause (b-1) of sub-section (2) of Section 128”.

5. *Amendment of section 128*.—In Section 128 of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely :—

“(b-1) Any work or construction or reconstruction of building undertaken, carried out or completed in contravention of Sections 247 to 251 and Chapter XVII of the Orissa Municipal Act (23 of 1950) or any rules, bye-laws or regulations made thereunder in force at the relevant point of time or any orders made or permission granted in respect thereof within the whole or part of development area and to which the provisions of clause (b) do not apply, shall be deemed to be a development

undertaken, carried out or completed without a permission as referred to in section 15".

6 *Repeal and savings.*—(1) The Orissa Development Authorities (Amendment) Ordinance, 12 of 1984 is hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance anything done or any action taken thereunder shall be deemed to have been done or taken under this Act.

THE ORISSA MUNICIPAL COUNCILS (POSTPONEMENT OF ELECTIONS) (AMENDMENT) ACT, 1985

The following Act of the Orissa Legislature received the assent of the Governor and was published in the *Orissa Gazette, Extraordinary* dated 23rd April, 1985.

ORISSA ACT NO. 3 OF 1985

An Act to amend the Orissa Municipal Councils (Postponement of Elections) Act, 1984.

Be it enacted by the Legislature of the State of Orissa in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Orissa Municipal Councils (Postponement of Elections) (Amendment) Act, 1985.

(2) It shall be deemed to have come into force on the 31st day of December, 1984.

2. *Amendment of section 3.*—In clause (b) of Section 3 of the Orissa Municipal Councils (Postponement of Elections) Act 9 of 1984, for the words, figures and letters "the 31st December, 1984", the words, figures, and letters "the 31st December, 1985" shall be substituted.

3. *Repeal and savings.*—(1) The Orissa Municipal Councils (Postponement of Elections) (Second Amendment) Ordinance, 14 of 1984, is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Published in the *Orissa Gazette, (Extraordinary)*, No. 699,
dated 13th May, 1984.

COMMERCE AND TRANSPORT (TRANSPORT) DEPARTMENT

S. R. O. No. 238/85.—(the 7th May 1985) —Whereas the draft of certain rules further to amend the Orissa Motor Vehicles Rules, 1940 was published as required by sub-section (1) of section 133 of the Motor Vehicles Act, 1939 (4 of 1939), in the extraordinary issue No. 152 of the Orissa Gazette, dated the 2nd February, 1985 under the notification of the Government of Orissa in the Commerce and Transport (Transport) Department No. 1334-T., dated the 23rd January, 1985, bearing S. R. O. No. 62/85, inviting objections and suggestions from all person likely to be affected thereby till the expiry of a period of thirty days from the date of publication of the said notification ;

And whereas no objection or suggestion has been received in respect of the said draft by the authority specified in the said notification ;

Now, therefore, in exercise of the powers conferred by section 68, read with sub-section (5) of section 44 of the said Act, the State Government do hereby make the following rules further to amend the Orissa Motor Vehicles Rules, 1940, namely :—

1. (1) These rules may be called the **Orissa Motor Vehicles (Third Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Orissa Motor Vehicles Rules, 1940, after rule 52-D, the following new rule shall be inserted, namely :—

“52-D-1. Delegation of power under section 16 to Police Officers—

The Regional Transport Authority may, by general resolution recorded in the proceedings, delegate to the Superintendent of Police and Deputy Superintendents of Police of the district concerned its power under section 16 of the Act to declare any person disqualified, for a specified period, for holding or obtaining a licence to drive any transport vehicle or a transport vehicle of a particular class or description in the State :

Provided that the Police Officer making such declaration shall inform the Regional Transport Authority concerned from time to time of the action taken by him in pursuance of the power so delegated.”

Published in the *Orissa Gazette*, (Extraordinary), No. 843,
dated 11th June, 1985.

COMMERCE AND TRANSPORT (TRANSPORT) DEPARTMENT

S. R. O. No. 373/85.—(the 6th June, 1985).—Whereas the draft of certain rules further to amend the Orissa Motor Vehicles Rules, 1940 was published as required by sub-section (1) of section 133 of the Motor Vehicles Act 1939 (4 of 1939), in the Extraordinary issue of the Orissa Gazette No. 606, dated the 20th April, 1985, under the notification of the Government of Orissa in the Commerce and Transport (Transport) Department No. 4930—LC-I-A-23/85-T., dated the 10th April, 1985 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of thirty days from the date of publication of the said notification ;

And whereas no objection or suggestion has been received by the State Government in respect of the said draft ;

Now, therefore, in exercise of the powers conferred by section 68 of the said Act, the State Government do hereby make the following rules further to amend the Orissa Motor Vehicles Rules, 1940, namely :—

1. (1) These rules may be called the **Orissa Motor Vehicles (Fourth Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Orissa Motor Vehicles Rules, 1940, in sub-rule (a) of rule 52-E, the words and letters “or by a person holding a registered power-of-attorney on his behalf” appearing therein shall be deleted.

Published in the *Orissa Gazette, Extraordinary* No. 907, dated 28th June, 1985.

LAW DEPARTMENT

S R O No 280/85.—(*The 24th May, 1985*).—In exercise of the power conferred by Article 165 and the proviso to Article 309 of the Constitution of India, the Governor of Orissa hereby makes the following rules further to amend the Law Officers of the High Court (Recruitment, Remuneration and Duties) Rules, 1974, namely:—

1. (1) These rules may be called the **Law Officers of the High Court (Recruitment, Remuneration and Duties) (Amendment) Rules, 1985**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Law Officers of the High Court (Recruitment, Remuneration and Duties) Rules, 1974 (hereinafter referred to as the said rules), in rules 10—

(i) in clause (d) for the letters and figure "Rs. 150" the words "rupees two hundred" shall be substituted;

(ii) in clause (e) including the proviso thereto, for the letters and figure "Rs. 100" and "Rs. 150" the words "rupees one hundred and fifty" and "rupees two hundred" shall respectively be substituted.

(iii) in clause (f), for the letters and figure "Rs. 150" the words "rupees two hundred" shall be substituted; and

(iv) in clause (g), for the letters and figure "Rs. 125" the words "rupees one hundred and sixty" shall be substituted.

3. In the said rules, in clause (a) of rule 11, for the letters and figure "Rs. 55" the words "rupees seventy-five" shall be substituted.

THE ORISSA SALES TAX (AMENDMENT) ACT, 1985

The following Act of the Orissa Legislature received the assent of the Governor on 13th August, 1985 and was published in the *Orissa Gazette, (Extraordinary)*, dated 13th August, 1985.

ORISSA ACT NO. 8 OF 1985

An act to amend the Orissa Sales Tax Act, 1947.

Be it enacted by the Legislature of the State of Orissa in the Thirty-sixth Year of the Republic of India, as follows:—

1. *Short title and commencement*—(1) This Act may be called the **Orissa Sales Tax (Amendment) Act, 1985**.

(2) It shall be deemed to have come into force on the 7th day of April, 1984.

2. *Amendment of section 2*—In section 2 of the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act), after clause (i), the following clause shall be inserted, namely:—

"(ii) Works contract includes any agreement for carrying out for cash or deferred payment or other valuable consideration, the building, construction, manufacture, processing fabrication, erection installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property;"

3. *Amendment of section 5*—In section 5 of the principal Act, in subsection (2) after clause (A), the following clause shall be inserted, namely:—

“(AA) In this Act, the expression “taxable turnover in respect of,—

(i) “Works Contract” shall mean the gross value of the works contract received or receivable by the dealer for carrying out such contract less the amount of labour charges incurred for the execution of the contract ; and

(ii) “delivery of goods on hire-purchase or any system of payment by instalments” shall mean the hire-purchase price or the total sum payable by the person for the purchase of goods notwithstanding the price of goods is paid in periodical instalments”

4. *Repeal and saving.*—(1) The Orissa Sales Tax (Amendment) Ordinance, 2 of 1985 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been Act done or taken under the principal Act as amended by this Act.

THE ORISSA RELIEF UNDERTAKINGS (SPECIAL PROVISIONS) (AMENDMENT AND VALIDATION) ACT,

1985

The following Act of the Orissa Legislature received the assent of the President on 24th April 1985 and was published in the *Orissa Gazette (Ext.)*, dated 29th April 1985.

ORISSA ACT NO. 6 OF 1985

An Act to amend the Orissa Relief undertakings (Special provisions) Act 1983 and to validate certain actions taken thereunder.

Be it enacted by the Legislature of the State of Orissa in the Thirty-sixth year of Republic of India, as follows :—

1. *Short title and commencement*—(1) This Act may be called the *Orissa Relief Undertakings (Special Provisions) (Amendment and Validation) Act, 1985*.

(2) It shall be deemed to have come into force on the 11th October 1984.

2. *Amendment of section 1.*—In section 1 of the Orissa Relief Undertakings (Special provisions) Act, 1983 [Orissa Act 3 of 1984] (hereinafter referred to as the principal Act), sub-section (3) shall be deleted and shall always be deemed to have been so deleted.

3. *Validity of thing done, actions taken and notifications issued.*—Notwithstanding anything contained in the principal Act, anything done, any action taken or any notification issued by the State Government in the belief or purported belief that while doing such thing, taking such action or issuing such notification, the principal Act was in full force and application and contained provisions enabling the State Government to do such thing, take such action and issue such notification shall not be questioned in any court of law or otherwise open to challenge merely on the ground that the Act was not in force or application or did not contain provision enabling the State Government to do the things, to take the actions taken or notification issued shall be deemed to have been validly done, taken or issued in exercise of the powers conferred by the provisions of the principal Act.

4. *Repeal and savings.*—(1) The Orissa Relief Undertakings (Special provisions) (Amendment and Validation) Ordinance, 11 of 1984 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act,

THE ORISSA DEVELOPMENT AUTHORITIES (AMENDMENT) ORDINANCE, 1985

The following Ordinance was published in the *Orissa Gazette (Ext.)*, dated 13th May, 1985.

ORISSA ORDINANCE NO. 1 OF 1985.

To amend the Orissa Development Authorities Act, 1982.

Whereas the Legislature of the State of Orissa is not in session :

And whereas the Governor of Orissa is satisfied that the circumstances exist which render it necessary for him to take immediate action to amend the Orissa Development Authorities Act, 1982 in the manner hereinafter appearing :

Now, therefore in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-sixth Year of the Republic of India :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Orissa Development Authorities (Amendment) Ordinance, 1985.

(2) It shall come into force at once.

2. *Deletion of section 116.*—Section 116 of the Orissa Development Authorities Act, 14 of 1982 shall be deleted.

THE END

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Published in the *Gujarat Govt. Gazette*, Part IV-B, No. 46,
dated 15th November, 1984

FINANCE DEPARTMENT

No. GHN-101-(A) LNF-1084-6801/N-1.—(*Sachivalaya, Gandhinagar, 8th October, 1984.*)—Whereas, certain draft rules were published as required under section 27 of the Gujarat Agricultural Credit (Provision of Facilities) Act, 1979 (Gujarat 19 of 1979) at pages 131-1 to 131-3 of the Gujarat Government Gazette Extra Ordinary, Part-IVB, dated the 14th June, 1984 under the Government Notification No. (GHN-69)LNF/1083-6801/N-1, dated 14th June 1984 inviting objections and suggestions from all persons likely to be affected thereby till 13th July, 1984 ;

And Whereas no objections and suggestion were received on the said draft ;

Now, therefore, in exercise, of the powers conferred by section 27 of the Gujarat Agricultural Credit (Provision of Facilities) Act, 1979 (Guj. 19 of 1979), the Government of Gujarat hereby makes the following rules further to amend the Gujarat Agricultural Credit (Provision of Facilities) Rules, 1980 as follows, namely :—

1. These rules may be called the **Gujarat Agricultural Credit (Provision of Facilities) (Amendment) Rules, 1984.**

2. In the Gujarat Agricultural Credit (Provisions of Facilities) Rules, 1980, (hereinafter referred to as “the said rules”), after rule 3, the following rules shall be inserted, namely :—

“3A. An appeal shall be filed within two months commencing from the date of communication of the decision of an officer authorised by the State Government under sub-section (4) of section 10.

3B. (1) Every appeal shall be presented to the State Government in person by the appellant or as the case may be by his duly appointed agent to the State Government during office hours or sent by registered post.

(2) Every such appeal shall—

(a) be written legibly in ink or typed or printed in English language or in the Gujarati language on a durable foolscap or other paper similar to it in size and quality.

(b) be accompanied by the decision or order (either in original or certified copy thereof) in respect of which such appeal has been made.

(c) specify the name and address of the appellant and also the designation and address of the authority from whose order or decision the appeal has been filed.

(d) State clearly the grounds on which the appeal is made.

(e) State precisely the relief which the appellant claims.

(f) State the date of the decision or order complained against.

(g) if an appeal preferred is made after the expiry of the period of limitation, State concisely how the appeal is in time or the reasons why the appellant wants any delay in filing the appeal to be condoned."

3. In the said rules, after rule 4, the following rule shall be inserted, namely :—

"4A. Where an agriculturist has secured any financial assistance given to him by a bank in accordance with the provisions of the Act in respect of which the amount of loan so granted is misused, the officer authorised shall inquire into and after giving him an opportunity of being heard decide upon the question of misuse and his decision shall be final subject to an appeal to the State Government."

4. In the said rules, after rule 7, the following rule shall be inserted, namely :—

"7A. When the bank itself has acquired any agricultural land or interest therein in exercise of the powers vested in it under sub-section (1) of section 12, it shall dispose it of within a period of six months commencing from the date such land or interest therein was so acquired by the bank."

5. In the said rules, in rule 8, for the word "may", the word "shall" shall be substituted.

Published in the *Maharashtra Govt. Gazette*, Part IV-Aa,
dated November 7, 1984.

HOME DEPARTMENT

No. MVA. 1577/1867-TRA-2.—(*Mantralaya, Bombay 400 032, dated the 7th November, 1984*).—In pursuance of sub-rule (2) of rule 1 of the *Bombay Motor Vehicles (Amendment) Rules, 1984*, the Government of Maharashtra hereby appoints the 10th day of November, 1984 to be the date on which the said rules except rule 3 thereof shall come into force.

REVENUE AND FORESTS DEPARTMENT

No. MMR. 1082/1623/1686/G-7.—(*Mantralaya, Bombay 400 032, dated 9th November, 1984*).—In exercise of the powers conferred by sub-section (1) of section 15 of the *Mines and Minerals (Regulation and Development) Act, 1957* (67 of 1957), and all other powers enabling it in that behalf, the Government of Maharashtra hereby amends the rules relating to minor minerals, as follows, namely :—

1. (1) These Rules may be called the *Maharashtra Minor Mineral Extraction (Amendment) Rules, 1984*.

(2) They shall come into force on the 1st day of January 1985.
 2. The rules specified in column 2 of the Schedule hereto shall be amended in the manner and to the extent respectively specified against each of them in column 3 of that Schedule.

SCHEDULE

Serial Number	Short title of Rules.	Amendment
1	2	3
1	The Maharashtra Minor Mineral Extraction (Vidarbha Region) Rules, 1966.	(a) In rule 4, in sub-rule (2),— (i) for the letters and figures "Rs. 25" the letters and figures "Rs. 100" shall be substituted. (ii) in the proviso for the letters and figure "Rs. 5" the letters and figures "Rs. 25" shall be substituted. (b) In rule 12, for the letters and figure "Rs. 2" the letters and figures "Rs. 10" shall be substituted. (c) In rule 16, in sub-rule 4 in-clause (i) for the letters and figures "Rs. 25" the letters and figures "Rs. 100" shall be substituted. (d) In rule 17, for the letters and figures "Rs. 50" the letters and figures "Rs. 200" shall be substituted. (e) In Rule 18, in sub-rule (1) in clause (xviii) for the words "sixty days" the words "thirty days" shall be substituted. (f) In rule 34 for the letters and figure "Rs. 5" the letters and figures "Rs. 25" shall be substituted. (g) In rule 34, for the letters and figures "Rs. 15" the letters and figures "Rs. 50" shall be substituted. (h) For Schedule II, the following shall be substituted, namely:—

"SCHEDULE II

*Limits of Dead Rents**(See rules 16 and 18)*

Per half hectare or portion thereof

	Minimum	Maximum
	Rs.	Rs.
I. Specified Minor Minerals.	10.	25
II. All other Minor Minerals.	5	10"

1	2	3
2	The Bombay Minor Minerals Extraction Rules, 1955.	(a) In rule 4, in sub-rule (2),— (i) for the letters and figures "Rs. 25" the letters and figures "Rs. 100" shall be substituted. (ii) in the proviso for the letters and figures "Rs. 5" the letters and figures "Rs. 25" shall be substituted. (b) In rule 12, for the letters and figure "Rs. 2" the letters and figures "Rs. 10" shall be substituted. (c) In rule 16, in sub-rule 4, in clause (i), for the letters and figure "Rs. 25" the letters and figures "Rs. 100" shall be substituted. (d) In rule 17, for the letters and figures "Rs. 50" the letters and figures "Rs. 200" shall be substituted. (e) In rule 18, in sub-rule (1), in clause (xviii) for the words "sixty days" the words "thirty days" shall be substituted. (f) In rule 31,— (i) for the letters and figure "Rs. 5" the letters and figures "Rs. 25" shall be substituted. (ii) in the first proviso for the figure and word "4 annas" the letters and figure "Rs. 5" shall be substituted ; (iii) in the second proviso, for the letters and figure "Rs. 1" the letters and figure "Rs. 5" shall be substituted. (g) In rule 34, for the letters and figures "Rs. 15" the letters and figures "Rs. 50" shall be substituted. (h) For Schedule II, the following shall be substituted, namely :—

"SCHEDULE II

Limits of Dead Rents

(See rules 16 and 18)

Per half hectare or portion thereof

	Minimum Rs.	Maximum Rs.
1. Specified Minor Minerals.	10	25

1	2	3
II.	All other Minor Minerals.	5 10"
3.	The Rules Regulating the working of Minor Minerals, 1954.	(a) In rule 11, for the words, letters and figures "of Rs. 25 per acre per annum" the words, letters and figures "of Rs. 100 per acre per annum" shall be substituted. (a) In rule 26A in clause (i) for the letters and figures, "Rs. 25" the letters and figures "Rs. 100" shall be substituted. (c) In rule 28, in clause (xviii) after the words "may determine the lease and take possession of the lease premises" the words "after giving notice in writing to the lessee asking him to remedy the breach within thirty days from the date of the notice" shall be inserted. (d) In rule 33, for the letters and figure "Rs. 1" the letters and figure "Rs. 10" shall be substituted.

Published in the *Maharashtra Govt. Gazette*, Part IV-Ba,
dated October 20, 1984

REVENUE AND FORESTS DEPARTMENT

No. TVA-1082/1664/IS(I).—(*Mantralaya, Bombay 400 032, dated the 20th November, 1984.*)—In exercise of the powers conferred by sub-section (2) of the *Maharashtra Luxury-cum-Entertainment and Amusement Tax on Holders of Television Sets (Amendment) Act, 1984* (Mah. XXI of 1984), the Government of Maharashtra hereby appoints the 1st day of January, 1985, to be the date on which the said Act shall come into force.

Published in the *Maharashtra Govt. Gazette*, Part IV-Ba,
dated December 6, 1984

LAW AND JUDICIARY DEPARTMENT

No. DAJ. 5284/1597(149)-III.—(*Mantralaya, Bombay 400 032, dated the 21st November, 1984.*)—In exercise of the powers conferred by article 234 and the proviso to article 309 of the Constitution of India, the Governor of Maharashtra, after consultation with the High Court of Judicature at Bombay, is hereby pleased to make the following rules further to amend the Bombay Judicial Service Recruitment Rules, 1956, namely :—

1. These rules may be called the **Bombay Judicial Service Recruitment (Second Amendment) Rules, 1984.**

2. In rule 5 of the Bombay Judicial Service Recruitment Rules, 1956, for sub-rule (4), the following sub-rule shall be substituted, namely :—

"(4) *Additional District Judges.*—(a) Appointments to the posts of Additional District Judges shall be made by the Governor in consultation with the High Court by promotion from the Civil Judges Junior Division) or Civil Judges (Senior Division) or Chief Judicial Magistrate of not less than seven years' standing :

Provided that in computing the period during which a person has been a Civil Judge (Junior Division) or Civil Judge (Senior Division) or Chief Judicial Magistrate or Additional Chief Judicial Magistrate there shall be included any period during which the person has worked as a Civil Judge or Judicial Magistrate of the First Class.

(b) A select list of persons who are constituted fit for appointment by promotion to posts of Additional District Judges shall be prepared annually by Government in consultation with the High Court and the appointments shall be made subject to the conditions mentioned in the following clauses, namely :—

(i) the selection shall be based on merit, but seniority of the members shall be taken into account as far as possible.

(ii) as between Officers on the select list, their seniority shall be governed by their order in such list irrespective of the date on which they may be first appointed to officiate as Additional District Judges ;

(iii) in the case of Officers confirmed as Additional District Judges, their seniority shall depend on the date of their confirmation ; but if the confirmation of any Officer is postponed for reasons unconnected with his fitness for the post, the Government may, in consultation with the High Court, give him seniority above those who were below him in the select list but who have been confirmed before him."

Published in the *Maharashtra Govt. Gazette*, Part IV-Ka,
dated December 13, 1984.

**BY THE MAHARASHTRA HOUSING AND AREA
DEVELOPMENT AUTHORITY**

No. MH/EMR/1083/8474/EM-9.—(*Griha Nirman Bhavan, Bandra (East), Bombay 400 051, dated the 27th November, 1984.*)—In exercise of the powers conferred by sub-section (1) of section 185 of the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), read with sections 28 and 64 of the said Act and rule 17 of the Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981, and of all other powers enabling it in that behalf, the Maharashtra Housing and Area Development Authority, with the previous sanction of the Government of Maharashtra, hereby makes the following Regulations further to amend the Maharashtra Housing and Area Development (Estate Management, Sale, Transfer and Exchange of Tenements) Regulations, 1981; namely :—

1. *Short title*—These Regulations may be called the **Maharashtra Housing and Area Development (Estate Management, Sale, Transfer and Exchange of Tenements) (Amendment) Regulations, 1984.**

2. *Substitution of Regulations 11 and 12.*—For Regulations 11 and 12 of the Maharashtra Housing and Area Development (Estate Management Sale, Transfer and Exchange of Tenements) Regulations, 1981 (hereinafter referred to as "the principal Regulations"), the following shall be substituted, namely:—

"11. *Drawal of lots.*—(1) After expiry of the last date of receipt of applications as displayed on the notice board under Regulation 7, the Chief Officer shall,—

(a) If the number of applicant in any category of persons is equal to or less than the number of tenements notified under Regulation 7, direct the Authorised Officer to draw lots to determine the order in which their names, subject to the determination of their eligibility under Regulation 12, shall be entered in the Allotment Register for the purpose of allotment of tenements as provided in Regulation 13 ;

(b) if the number of applicants in any category of persons is more than the number of tenements specified in the notice displayed under Regulation 7, direct the Authorised Officer to draw lots under clause (2) of this Regulation

(2) The Authorised Officer shall, after intimating to the members of the Allotment Committee regarding the date, time and place of the draw, proceed to draw lots from among the applicants in the presence of such members, so however that the number of lots so drawn does not exceed four-times the number of available tenements in the case of tenements in the reserved categories and two times the number of available tenements in other cases. The applicants shall be informed of the date, time and place of the draw by notice displayed on the notice board of the Board and also by publishing the same in such daily newspapers as the Chief Officer thinks fit.

(3) On each draw, under clause (2) of this regulation the Authorised Officer shall, in the presence of the members of the Allotment Committee, enter the names of each drawee in the Register of Drawees maintained for the purpose, so that the names of the successful drawees are entered in the said Register in the same order in which they emerge out of the lots.

(4) There shall be a separate Register of Drawees for each category.

(5) After the entries on a page of the Register of Drawees are complete, the Authorised Officer and a member of the Allotment Committee duly authorised by it in this behalf, shall each sign the page and any corrections or cancellations, which shall be made by scoring across the inaccuracies or mistakes and making the correct entries therefor, in token of the names or corrections or cancellations being made in their presence and with their approval.

(6) After the drawal of lots in all categories of the scheme is completed and the Registers of Drawees are authenticated in the manner prescribed in the foregoing provisions, the Chief Officer shall require the names of all the persons who have been successful in the drawal of lots to be displayed categorywise and in the same order in which they are entered in the Register of Drawees on the notice board of the Board, and shall publish a notice in such newspapers as he thinks fit, that a list of persons who have been successful in the drawal of lots for the housing scheme specified in such notice has been displayed on the notice board of the Board and is open for inspection during office hours. A successful applicant shall also be informed individually by registered post the category in which he has been successful and the rank obtained by him in the drawal of lots.

12. *Determination of eligibility.*—(1) After the publication of the list of persons who have been successful in the drawal of lots under clause (6) of Regulation 11, the Chief Officer shall direct the Authorised Officer to scrutinize the applications of such successful persons and to determine their eligibility.

(2) The Authorised Officer shall, on receipt of the direction under clause (1) of this Regulation, proceed to determine the eligibility of such successful applicants with the approval of a sub-committee consisting of members of the Allotment Committee appointed by the Chief Officer in this behalf ("hereinafter referred to as") the said sub-committee.

(3) The Authorised Officer shall scrutinize and determine whether or not each such successful applicants fulfils the conditions of allotment displayed in the notice under Regulation 7, and as disclosed from the particulars specified by him in Form I and from such other evidence, if any, as the said sub-committee may think fit to consult, and shall thereafter draw a list of eligible applicants in each category of persons specified in the notice displayed under Regulation 7.

(4) In respect of housing schemes wherein preference is required to be given to any class of persons in the matter of allotment of tenements, the Authorised Officer shall also scrutinize and determine whether or not the successful applicant falls in the class of persons entitled to the preference in the matter of allotment as specified in the notice displayed under Regulation 7. The list of eligible applicants drawn up under clause (3) of this Regulation in such cases shall indicate against the name of each such successful applicant whether or not he is entitled to such preference.

(5) The applicants may also be called for interview with all the necessary documents or any evidence which the Authorised Officer or the said sub-committee may require to consult for the purpose of determining eligibility.

(6) The list of eligible persons drawn up under clause (3) of this Regulation shall be forwarded to the Chief Officer.

(7) On receipt of a list of eligible persons the Chief Officer shall require it to be displayed on the notice board of the Board, and shall publish a notice in such newspapers as he thinks fit that the list of eligible persons for the housing-scheme specified in such notice has been displayed on the notice board of the Board, that it is open for inspection during office hours and that it is subject to modifications after decision on appeals, if any preferred as provided in clause (9) of this Regulation. The persons held so eligible shall be informed of the decision by Registered Post A. D.

(8) Any applicant who desires to prefer an appeal against the list of eligible persons, including the entitlement or otherwise to the preference indicating therein, may file it before an officer appointed by the Chief Executive Officer in this behalf within 15 days from the date on which the notice is published in the newspapers under clause (7). Such appeal shall as far as possible be decided within 15 days from the date on which such appeal is received by the officer after hearing the applicant. In case the appeal is rejected, the decision shall contain in belief the reasons for which the appeal is rejected.

(9) After all the appeals preferred under clause (8) of this Regulation are decided the Authorised Officer shall, if necessary, modify the list

of eligible persons displayed under clause (7) of this Regulation in accordance with the orders passed in the appeals so preferred under clause (8). In respect of housing schemes wherein preference is required to be given to any class of persons in the matter of allotment of tenements the Authorised Officer shall rearrange the order of the names in the list of eligible persons so modified so that the names of persons from preferred class are entered first in the same order in which they appear in the modified list of eligible persons and thereafter the names of other persons shall be entered in the same order in which they appear in the said modified list.

(10) The final list of eligible persons prepared in accordance with the provisions of clause (9) of this Regulation, along with such other particulars as the Chief Officer may determine, shall be displayed on the notice board of the Board or such other place as the Authorised Officer may think necessary in the interest of giving adequate notice to applicants entered in such list.

(11) The final list of eligible persons displayed under clause (10) of this Regulation shall in so far as it consists of persons who in the order of their ranks in such list are immediately entitled to the allotment of tenements, constitute the "approved list" while the remaining persons in the said list shall constitute the "waiting list". A copy of the approved list or the waiting list may be made available to any person who asks for it on payment of such price as may be determined by the Chief Officer.

12A. *Procedure in cases of previous assessment.*—In cases wherein a housing scheme has been undertaken after a survey or an assessment of the housing requirements of the members of the public in a particular locality and in pursuance of the applications received from them in that behalf, regular applications under Regulation 7, for allotments to be made for tenements in a building or buildings constructed or to be constructed in such a scheme, shall initially be invited only from such of the persons who had earlier applied and registered their names in response to the advertisement published for the assessment of the housing requirements of the members of the public in that locality :

Provided that if the number of tenements that are constructed or are to be constructed in such a scheme is more than the applications received at the time of assessment survey, the notice inviting applications for residential accommodation displayed under regulation 7 need not be restricted to such persons but in that case the preference for allotment of tenements in that scheme shall be given to such persons who had applied and registered earlier and who are found to be eligible for the same.

(2) If the persons who had earlier applied and registered their names for tenements in such a scheme do not apply in response to the notice displayed under Regulation 7, they shall be deemed to have withdrawn from the scheme and shall not thereafter be eligible for allotment of a tenements therein on the strength of their earlier application and registration.

(3) The amount of deposit or earnest money, if any, paid by a person at the time of assessment survey shall, subject to the deduction of such administrative expenses as may be determined by the Authority, be refunded to him if he has not applied in response to the notice displayed under Regulation 7.

(4) If after allotment of tenements in such a scheme to all the eligible persons who had applied both at the time of the assessment survey and in response to the notice displayed under Regulation 7, there are any surplus tenements remaining to be filled in, the Chief Officer shall, if necessary, renotify the same and shall allot them to members of public in accordance with the provisions of these Regulations.

3. *Amendment of Regulation 13.*—In Regulation 13 of the principal Regulations,—

(i) in clause (1), for the words “register of drawees” the following shall be substituted, namely :—

“final list displayed under clause (10) of Regulation 12 :

Provided that the successful applicant in the reserved category of blind or physically handicapped persons and such physically handicapped persons in other categories may, on their request, and on the production of the requisite medical certificate by such persons in the categories other than the reserved category of blind or physically handicapped persons be allotted tenements on the ground floor.”;

(ii) in clause (2), for the words, brackets and figures “the register of drawees prepared under clause (3) of Regulations 12” the words, brackets and figures “the final list displayed under clause (10) of Regulation 12” shall be substituted.

4. *Amendment of Regulation 14.*—In Regulation 14 of the principal Regulations, for the words and figures “the list of eligible persons prepared under Regulation 11” the words and figures “the final list of eligible persons prepared under Regulation 12” shall be substituted.

5. *Insertion of Regulation 14A.*—After Regulation 14 of the principal Regulations, the following new regulation shall be inserted namely :—

“14A. *Special provision for disposal of tenements in certain circumstances.*—If even after renotification of vacancies as provided in Regulation 14 there is no adequate response and demand for tenements in any particular scheme such of the tenements as cannot be so disposed of may be disposed of on the ‘first come, first served’ basis or in any other manner determined by the Authority from time to time.”

6. *Amendment of Regulation 21.*—In Regulation 21 of the principal Regulations,—

(a) after clause 6, the following new clause shall be inserted, namely :—

“(6A) Notwithstanding anything contained in the foregoing provisions of this regulation or clause (2) of regulation 4; but subject to the provisions of any municipal or planning law for the time being in force, the Authority may, if the circumstances so require, in the case of tenements in a single storeyed building constructed by the Board and disposed of on an outright sale basis or hire purchase basis, direct the Chief Officer to take steps without undue delay, after the entire amount due from all the allottees in the building is paid to the Authority,—

(i) to convey the tenements in such a building to the individual allottees thereof with its right, title and interest therein ;

(ii) to lease to them the land underneath and appurtenant to their respective tenements ; and

(iii) execute the necessary documents in that behalf.”;

(b) for clause (7), the following clause shall be substituted, namely :—

“(7) All charges including stamp duty and registration fees to be paid in respect of the documents referred to in clause (6) or clause (6A) shall be borne by the housing society, company, the Association or the allottee, as the case may be.”

7. *Amendment of Regulation 25.*—In Regulation 25 of the principal Regulations—

(i) in clause (1), the following shall be added at the end, namely :—

“It shall be open to the Board to refuse the permission or to grant the same subject to such conditions including a condition regarding the payment of a portion of the unearned increase in the value of the tenement not exceeding fifty per cent. of such increase as the Authority may, in its absolute discretion but subject to the other provisions of this Regulation, think fit.”

(ii) for clause (2), the following shall be substituted, namely :—

“(2) The housing society or the company may give permission to transfer any tenement, if—

(a) (i) a period of five years has elapsed from the date of allotment of tenement under Regulation 20 to the allottee ;

(ii) in the case of tenements falling in the housing schemes formulated for persons belonging to the Economically Weaker Section or the Low Income Group or the Middle Income Group, the transferee falls within any of the aforementioned groups ;

(iii) in the case of tenements falling in the housing schemes formulated for persons belonging to High Income Group, the transferee falls within the same income group ;

(b) the transferee has paid all the dues to the Board on behalf of the Authority.”

8. *Amendment of Regulation 28.*—In Regulation 28 of the principal Regulations, in clause (3), in sub-clause (d) for the words “such tenement” the words “such tenement without the previous permission of the Authority” shall be substituted.

9. *Amendment of Form II.*—In Form II appended to the principal regulations, after condition 10 in the Appendix the following shall be inserted, namely :—

“10A. If the allottee fails to pay any instalment or any other dues of the Authority on the due date, the Authority, without prejudice to any other remedy available to it shall be at liberty to recover the same together with interest thereon at the rate of per cent per annum as arrears of land revenue under the provisions of section 67 and 180 of the Maharashtra Housing and Area Development Act, 1976.”

10. *Amendment of Form V.*—In Form V appended to the principal regulations, in paragraph 3, the following shall be added at the end, namely :—

“If you fail to pay in time the rent or any other dues of the Authority you shall be liable to pay interest thereon at the rate of per cent per annum.”

11. *Amendment of Form VI.*—In Form VI appended to the principal

pal regulations, in condition 13 the following shall be inserted namely :—

“13A. The tenant agrees that if he fails to pay the rent or any other dues of the Authority on the due date, the Authority without prejudice to any other remedy available to it, shall be at liberty to recover the same together with interest thereon at the rate of.....per cent. per annum as arrears of land revenue under the provisions of sections 67 and 180 of the Maharashtra Housing and Development Act, 1976.”

Published in the *Maharashtra Govt. Gazette*, Part IV-Ba,
Dated December 20, 1984.

LAW AND JUDICIARY DEPARTMENT

No. IPA 1084/558(225)-VI.—(*Mantralaya, Bombay 400 032, dated the 13th December, 1984*).—In exercise of the powers conferred by sub-section (2) of section 1 of the **Indian Partnership (Maharashtra Amendment) Act, 1984** (Mah. XXIX of 1984), the Government of Maharashtra hereby appoints the 1st day of January, 1985 to be the date on which the said Act shall come into force.

LAW AND JUDICIARY DEPARTMENT

No. LAC 1067/2115/(264)-X.—(*Mantralaya, Bombay 400 322, dated the 11th December 1984*).—In exercise of the powers conferred by sub-section (2) of section 1 of the **Provincial Small Cause Courts (Maharashtra Amendment) Act, 1984** (Mah. XXIV of 1984), the Government of Maharashtra hereby appoints the 1st day of January, 1985 to be the date on which the said Act shall come into force.

Published in the *Maharashtra Govt. Gazette*, Part IV-Aa,
dated December 20, 1984

AGRICULTURAL AND CO-OPERATION DEPARTMENT

No. ACT-1282/19624/5-A.—(*Mantralaya, Annexe, Bombay 400 032, 27th November, 1984*).—In exercise of the powers conferred by sub-section (1) and clause (a) of sub-section (2) of section 37 read with section 15 of the **Insecticides Act, 1968** (46 of 1968) and of all other powers enabling it in that behalf and after consultation with the Central Insecticides Board constituted under section 4 of the said Act, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section 37, namely :—

1. These rules may be called the **Insecticides (Maharashtra) Rules, 1984**.

2. In rule 3 of the **Insecticides (Maharashtra) Rules, 1975**, in sub-rule (1), for the words and brackets, “the Joint Director of Agriculture (Extension)” the words and brackets “the Additional Director of Agriculture (Extension)” shall be substituted.

Published in the *Gujarat Govt. Gazette*, Part IV-A, No. 51,
dated December 20, 1984.

HOME DEPARTMENT

No. G/G/84/228/MVR/1078/6369/E2.—(*Sachivalaya, Gandhinagar, 25th September, 1984*).—Whereas the draft rules further to amend the Bombay

Motor Vehicle Rules, 1959, were published as required by Sub-Section (1) of Section 133 of the Motor Vehicles Act, 1939 (IV of 1939) at pages 79-1 to 79-2 of the Gujarat Government Gazette, Extra Ordinary Part IV-A, dt. 25th July, 1984, under the Government Notification, Home Department No. GH/G/84/188/MVR-1078/6369/E 2, dt. 25th July, 1984 inviting objections and suggestions from all persons likely to be affected thereby.

And whereas no objections and suggestion were received from any person on the said draft by the Government.

Now, therefore in exercise of the powers conferred by clause (c) of sub-section (2) of Section 91 of the Motor Vehicles Act, 1939 (IV of 1939), the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959, namely :—

1. These rules may be called the **Bombay Motor Vehicles (Gujarat Third Amendment) Rules, 1984.**

2. In the Bombay Motor Vehicle Rules, 1959, in rule 260,—

(1) for sub-rule (1), the following sub-rule shall be substituted, namely :—

“(1) A weighing device for the purpose of section 73 may be a weighbridge installed and maintained at any place by or under the orders of the Government or a local authority or railway administration or by any other person :

Provided that such weighing device is verified and stamped in accordance with the provisions of the Bombay Weights and Measures (Enforcement) Act, 1958, and the rules made thereunder.”

(2) in sub-rule (2), the words “or Wheel-Weigher” where they occur at two places shall be deleted.

Published in the *Gujarat Govt. Gazette*, Part IV-A, No. 52, dated 27th December, 1984.

HOME DEPARTMENT

No. G/G/84/267/MVR/1084/2287/E-2.—(Sachivalaya, Gandhinagar, 6th November 1984).—Whereas the draft rules further to amend the Bombay Motor Vehicles Rules, 1959, were published as required by Sub-Section (1) of Section 133 of the Motor Vehicles Act, 1939 (IV of 1939) at pages 81-1 to 98-2 of the Gujarat Government Gazette Extra-Ordinary Part IV-A, dated 13th September 1984, under the Government Notification, Home Department, No. GH/G/84/207/MVR/1085/2287/E-2, dated 13th September 1984 inviting objections and suggestions from all persons likely to be affected thereby.

And whereas no objections and suggestions were received from any persons on the said draft by the Government.

Now, therefore, in exercise of the powers conferred by Section-41 of the Motor Vehicles Act, 1939 (IV of 1939) read with section 24 thereof the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959 namely :—

1. These rules may be called the **Bombay Motor Vehicles (Gujarat Fifth Amendment) Rules, 1984**

2. In the Bombay Motor Vehicles Rules, 1959, in the third schedule—

(a) In the entries relating to the Regional Transport Officer,

Ahmedabad city, in column 2, in the group of letters applicable to the vehicles, other than transport vehicles, after the group of letters 'GEU' the group of letters 'GUJ' shall be inserted.

HOME DEPARTMENT

No. G/G/84/268/MVR/1084/3607/E-2.—(*Sachivalaya, Gandhinagar, 6th November 1984*).—Whereas the draft rules further to amend the Bombay Motor Vehicles Rules, 1959, were published as required by sub-section (1) of Section 133 of the Motor Vehicles Act, 1939 (IV of 1939), at pages 100-1 to 100-2 of the Gujarat Government Gazette, Extra-Ordinary, Part IV-A, dated 15th September 1984 under the Government Notification, Home Department, No. GH/G/84/208/MVR/1084/3607/E-2 dated 15th September, 1984, inviting objections and suggestions from all persons likely to be affected thereby.

And whereas no objections and suggestions were received from any person on the said draft by the Government.

Now, therefore, in exercise of the powers conferred by Section 41 of the Motor Vehicles Act, 1939 (IV of 1939) read with section 24 thereof the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959, namely:—

1. These rules may be called the **Bombay Motor Vehicles (Gujarat Sixth Amendment) Rules, 1984.**

2. In the Bombay Motor Vehicle Rules, 1959, in the third Schedule—

(a) In the entries relating to the Assistant Regional Transport Officer, Bharuch, in column 2, in the group of letters applicable to the vehicle other than transport vehicles, after the group of letters "VRJ" the group of letters "GUN" shall be inserted.

HOME DEPARTMENT

No. G/G/84/269/MVR/1083/7509/E-2.—(*Sachivalaya, Gandhinagar, 6th November 1984*).—Whereas the draft rules further to amend the Bombay Motor Vehicles Rules, 1959, were published as required by Sub-Section (1) of Section 133 of the Motor Vehicles Act, 1939 (IV of 1939), at pages 102-1 to 102-2 of the Gujarat Government Gazette, Extra-Ordinary, Part IV-A, dated 15th September 1984, under the Government Notification, Home Department, No. GH/G/84/213/MVR/1983/7509/E-2, dated 15th September, 1984, inviting objections and suggestions from all persons likely to be affected thereby.

And whereas no objections and suggestions were received from person on the said draft by the Government.

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (2) of Section 41 read with Section 25 of the Motor Vehicles Act, 1939 (IV of 1939), the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959, namely:—

1. These rules may be called the **Bombay Motor Vehicles (Gujarat Seventh Amendment) Rules, 1984.**

2. In the Bombay Motor Vehicles Rules, 1959, in rule 51, in sub-rule (4) for words and letters "An officer of the Premier Automobiles Ltd., and an officer of Mahindra and Mahindra Ltd." the words "An officer

of the Premier Automobiles limited, an Officer of the Mahindra and Mahindra Limited and an officer of the Gujarat Tractor Corporation Limited" shall be substituted.

HOME DEPARTMENT

No. G/G/84/270/MVR/1083/750/E-2—(*Sachivalaya, Gandhinagar, 6th November 1984*).—Whereas the draft rules further to amend the Bombay Motor Vehicles Rules, 1959, were published as required by Sub-Section (1) of Section 133 of the Motor Vehicles Act, 1939 (IV of 1939), at pages 106-1 to 106-2 of the Gujarat Government Gazette Extra-Ordinary Part IV-A, dated 8th October, 1984, under the Government Notification Home Department No. GH/G/84/230/MVR/1083/758/E-2 dated 28th September, 1984, inviting objections and suggestions from all persons likely to be affected thereby.

And whereas no objections and suggestions were received from any person on the said draft by the Government.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 21 of the Motor Vehicles Act, 1939 (IV of 1939), the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959, namely :—

1. These rules may be called the **Bombay Motor Vehicles (Gujarat Eighth Amendment) Rules, 1984**.

2. In the Bombay Motor Vehicles Rules, 1959, in rule 20, after sub-rule (2B) the following sub-rule shall be inserted, namely :—

“(2C) If at any time a licence in Form M. S. is lost, destroyed, torn or defaced, the holder shall forthwith intimate the fact in writing to the Licensing Authority which has granted the licence, and the licensing authority shall, after making such inquiries as it thinks fit, issue a duplicate licence on payment of a fee of rupees 10”.

Published in the *Maharashtra Govt. Gazette*, Part IV-A; dated December 20, 1984

FOOD AND CIVIL SUPPLIES DEPARTMENT

No. ECA. 3184/1363/(1536)/XXIII.—(*Mantralaya Annexe, Bombay 400 032, dated the 1st December 1984*).—In exercise of the powers conferred by sub-section (1) read with clauses (d), (i) and (j) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), and of all other powers enabling the Government of Maharashtra in this behalf, read with order of the Government of India, in the Ministry of Agriculture and Irrigation (Department of Food), Order No. G. S. R.-800, dated the 9th June 1978 and with the prior concurrence of the Central Government, the Government of Maharashtra hereby makes the following Order, namely :—

1. (1) This Order may be called the **Maharashtra Paddy (Export Control) (Second) Order, 1984**.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force from the date of its publication in the Official Gazette.

(4) It shall remain in force upto and inclusive of the 30th September 1985, and shall then except as respects things done or omitted to be done before that date.

2. In this Order, unless the context otherwise requires :—

(a) "export" means to take or cause to be taken by any means whatsoever from any place in the State of Maharashtra to any place outside that State ;

(b) "paddy" means rice in husk.

3. No person shall export, or attempt to export or abet the export of paddy from any place in the State of Maharashtra to a place outside the Maharashtra State. Provided that, nothing herein shall apply to the export of paddy,—

(i) not exceeding five kilograms in weight in the aggregate by a bona fide traveller as part of his personal luggage ; or

(ii) on Government account, or

(iii) under and in accordance with Military Credit Notes, or

(iv) not exceeding four quintals for bona fide agricultural purpose, or

(v) which are certified seeds certified as such by or under the authority of the National Seeds Corporation Ltd., or

(vi) by or on behalf of the Food Corporation of India established under section 3 of the Food Corporation of India Act, 1964 (37 of 1964).

4. *Powers of entry, examination, search and seizure.*—(1) Any Police Officer, not below the rank of Sub-Inspector or any Officer of the Food and Civil Supplies Department not below the rank of Rationing Inspector in the the Bombay Rationing Area and elsewhere the Supply Inspector within their respective jurisdiction or any officer of the Revenue Department not lower in rank than that of Awai Karkun may with a view to securing compliance of this Order or to satisfy himself that the Order has been complied with,—

(a) stop and search any person or any boat, vessel, motor or other vehicle or any receptacle used or intended to be used for export of paddy,

(b) enter, search or examine any place,

(c) seize,—

(i) any stock of paddy in respect of which he has reason to believe that a contravention of any provision of this Order has been, is being or is about to be committed ;

(ii) any package covering or receptacle in which such stock of paddy is found ;

(iii) any animal, vehicle, vessel or other conveyances used in carrying such paddy if he has reason to believe that such animal, vehicle, vessel or other conveyances are liable to be forfeited under the provisions of the Essential Commodities Act, 1955 (10 of 1955) and thereafter take or authorise the taking of all necessary measures for securing the production of the package, covering, receptacle, animal, vehicle, vessel or other conveyances so seized before the Collector or the State Government which is the authority to hear appeal under section 6C of the said Act, if required to do so and for their safe custody, pending such productions ;

(d) Examine or seize any book of accounts or documents which, in his opinion, would be useful for or relevant to any proceedings in respect of any contravention of this Order and allow the person from whose custody such books of accounts are seized to make copies thereof or to take extracts therefrom in his presence.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, apply to searches and seizures under this clause.

Published in the *Maharashtra Govt. Gazette (Ext)*, Part IV-Aa, dated January 10, 1985.

FOOD AND CIVIL SUPPLIES DEPARTMENT

No. ECA. 4484/468/1475/XXIII.—(*Mantralaya Annexe, Bombay, 4000 032, dated the 21st December 1984*).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the order of the Government of India, in the Ministry of Agriculture and Irrigation (Department of Food) No. GSR. 800, dated the 9th June 1978 and in the Ministry of Agriculture (Department of Food) No. GSR. 452(E), dated the 25th October 1972 and with the prior concurrence of the Central Government, the Government of Maharashtra hereby makes the following Order, namely :—

1. *Short title, extent and commencement*.—(1) This Order may be called the **Maharashtra Paddy and Rice (Levy on Export) Order, 1984**.

(2) It extends to the whole of State of Maharashtra.

(3) It shall be deemed to have come into force with effect from 27th March 1984.

2. *Definition*.—In this Order, unless the context otherwise requires,—

(a) “Collector” in Greater Bombay means the Controller of Rationing and includes a Deputy or Assistant Controller of Rationing and elsewhere means the Collector of the district and includes an Assistant or Deputy Collector and the District Supply Officer and such other Officer as may be authorised by the Collector in this behalf ;

(b) “Commissioner” means a Commissioner, for a Division appointed under the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), and includes an additional Commissioner ;

(c) “Export” means to take or cause to be taken by any means whatsoever from any place in the State of Maharashtra to any place outside that State ;

(d) “Export levy price” means the price specified in schedule III for different varieties of paddy and rice as per the specifications specified in Schedule IV and V, as the case may be, or as fixed by the State Government with the prior concurrence of the Central Government from time to time ;

(e) “Food Corporation of India” means the Food Corporation of India established under the Food Corporations Act, 1964 (37 of 1964)

(f) “paddy” and “rice” means paddy and rice of the varieties described in schedule I and Schedule II respectively ;

(g) “Schedule” means a Schedule appended to this Order ;

(h) “Specifications”, means the specifications prescribed for paddy and rice in Schedule IV and V respectively.

3. *Levy on export of paddy and rice*.—Every person intending to export paddy and rice shall sell to the State Government paddy and rice, as the case may be, conforming to the specifications at the export levy price, 15 per cent of total quantity of paddy or rice sought to be exported on each occasion of export :

Provided that, in the case of export of par-boiled rice an export levy of

equivalent of raw rice can be offered for sale to Government at the option of the exporter :

Provided further that, nothing herein contained shall apply to the export of paddy or rice—

- (i) on Government account ;
- (ii) on the account of the Food Corporation of India ;
- (iii) under and in accordance with Military Credit Notes ;
- (iv) not exceeding one quintal of paddy or rice for *bond fide* agricultural purposes or consumption ;
- (v) certified seeds certified as such by or under the authority of the National Seeds Corporation Limited ; or
- (vi) in transit from one State to other passing through this State subject to proper transport document.

4. *Power of the State Government to determine the percentage of levy.*—The State Government may with the prior approval of Central Government increase or reduce the percentage of the total quantity of paddy or rice to be exported which should be sold to the State Government as required under clause 3 from such date as may be notified in the Official Gazette.

5. *Delivery of levy paddy or rice.*—The paddy or rice required to be sold to the State Government under clause 3 and conforming to the specifications shall be delivered by the intending exporter to the Collector or such officer as may be authorised by him in this behalf, at such place and in such manner, as may be specified by the Collector or such officer. It shall be the liability of such exporter to upgrade stocks not conforming to the specifications.

6. *Restriction on movement of paddy and rice.*—No person shall transport or offer or accept for transport whether by rail, road or water the paddy or rice outside the State of Maharashtra except under an "authorisation."

The "authorisation" shall be issued by the Collector on the verification of fulfilment of export levy.

7. *Form of authorisation.*—An authorisation for the purposes of clause 6 shall ordinarily be in the form specified in Schedule VI.

8. *Duty to comply with order or direction.*—Every person to whom an order or direction is issued under powers conferred by or under this order shall comply with such order or direction.

9 *Appeal* —(1) Any person aggrieved by the Order of the Collector may, within seven days from the date of service of such Order, appeal to the Commissioner exercising jurisdiction in the area.

(2) The Commissioner may fix the date, time and place for hearing the appeal thus preferred to him and may, from time to time, adjourn the hearing and make or cause to be made such further enquiries as he deems fit.

(3) In disposing of an appeal, the Commissioner may confirm or annul the order appealed against.

(4) The Commissioner shall communicate in writing the order passed in appeal by him to the appellant and also to the Collector concerned. Every order of the Commissioner on such appeal shall be final.

10. *Power of entry, examination, seizure etc.*—(1) Any police officer not below the rank of Sub-Inspector, or any officer of the Government of Mah-

arashtra in the Food and Civil Supplies Department or the Revenue Department not below the rank of Rationing Inspector in the Bombay Rationing Area and elsewhere not below the rank of the Supply Inspector may, within their respective jurisdiction, with a view to securing compliance of this order or satisfying himself that this order has been complied with,—

(a) stop and search any person or any boat, vessel, motor or other vehicle or any receptacle used or intended to be used for the export of paddy or rice,

(b) enter, search or examine any place,

(c) seize—

(i) any stocks of paddy or rice in respect of which he has reason to believe that contravention of any provisions of this order has been, is being, or is about to be committed ;

(ii) any packages, coverings or receptacles in which such stock of paddy or rice is found;

(iii) the animals, vehicles, vessels, or other conveyances used in carrying such paddy or rice if he has reason to believe that such animals, vehicles, vessels or other conveyances are liable to be forfeited under the provisions of the Essential Commodities Act, 1955; and

(iv) take or authorise the taking of all measure necessary for securing the production of the package, coverings, receptacles animals, vehicles, vessels or other conveyances so seized before the Controller of Rationing in the Bombay Rationing Area, and elsewhere, before the Collector of the district or the State Government which is the authority to hear appeal under section 6-C of the Essential Commodities Act, 1955, if required to do so, and for their safe custody pending such production ;

(d) examine or size any books of accounts or documents which, in his opinion, would be useful for, or relevant to, any proceeding in respect of any contravention of this order and allow the persons from whose custody such books of accounts or documents are seized to make copies thereof or to take extract therefrom in his presence.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be apply, to searches and seizures under this clause.

11. Nothing contained in this order shall apply to (i) the stocks of Basmati rice sought to be exported to other States in India or outside India or (ii) to the stocks of paddy or rice (other than basmati) sought to be exported to other States if it is proved to the satisfaction of the Collector that the said stocks of paddy or rice have been acquired as levy free stocks from other States.

In both the cases, with a view to chanelise export, "authorisations" should be issued on verification of applications from the intending exporters within a period of one week from the date of receipt of application by the Collector.

SCHEDULE I to VI

(omitted)

Published in the *Maharashtra Govt. Gazette*, Part Ka, dated
February 14, 1984.

**BY THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE**

No. PR (Revn) 0804/81.—The Honourable the Chief Justice and Judges of the High Court at Bombay, with the previous approval of the Governor of Maharashtra under the proviso to clause (3) of article 227 of the Constitution of India, are hereby pleased to direct that the following **amendments be made in the Criminal Manual, 1980.**

In Chapter XXI of the Criminal Manual, 1980, in paragraph 11, after sub-paragraph (3) appearing at page 228, the following shall be inserted, namely :—

“(4) (i) Certified copy prepared on Xerox machine shall be charged at the rate of Rs. 1 and 50 paise, per page ;

(ii) Urgent copy shall be charged one and half times the rate for an ordinary copy prepared on a Xerox machine ;

(iii). Charges for vernacular certified copy prepared on Xerox machine shall be at the same rates specified above.”

High Court, Appellate. side
Bombay, 29th January, 1985

S. D. KARWANDE,
Additional Registrar.

Published in the *Maharashtra Govt. Gazette*, Part Aa, dated 19th January,
1984

REVENUE AND FOREST DEPARTMENT

No. MMR 1082/1482-G-7.—(*Mantralaya, Bombay 400 032, dated 19th January, 1985*).—In exercise of the powers conferred by sub-section (1) of section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby amends the rules relating to minor minerals, as follows, namely :—

1. (1) These rules may be called the **Maharashtra Minor Mineral Extraction (Amendment) Rules, 1985**

(2) They shall come into force on the 1st day of February, 1985.

2. The rules specified in the second column of the Schedule appended hereto are hereby amended in the manner and to the extent specified in the third column thereof.

SCHEDULE

Serial Number 1	Short title of rules 2	Amendments 3
1.	The Maharashtra Minor Mineral Extraction (Vidarbha Region) Rules, 1966.	In rule 18 in sub-rule (1), in clause (i), in the proviso, for the figures and word “5 years” the words “four years” shall be substituted.
2.	The Bombay Minor Mineral Extraction Rules, 1955.	In rule 18, in sub-rule (1), in clause (i), in the proviso, for the figures and words “5 years” the words “four years” shall be substituted.

1	2	3
3.	The rules relating the working of Minor Minerals, 1954.	In rule 28, after clause (i), the following proviso, shall be added, namely :— “Provided that such rates shall be liable to be revised once in every four years.”

Published in the *Gujarat Govt. Gazette*, Part IV-A, No. 52, dated December 27, 1984

FOOD & CIVIL SUPPLIES DEPARTMENT

No. GTH/84/51/DGP-1084-GOI-150-D.—(*Sachivalaya, Gandhinagar, 7th December, 1984*).—Whereas the Government of Gujarat is of opinion that it is necessary and expedient so to do for maintaining supplies of rice and for securing its equitable distribution and availability at fair price ;

Now, therefore in exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with the Order of the Government of India, Ministry of Agriculture (Department of Food) No. GSR-800, dated the 9th June, 1978 and with the prior concurrence of the Central Government the Government of Gujarat hereby makes the following Order, namely :—

1. *Short title, extent and commencement*.—(1) This Order may be called the **Gujarat Rice Procurement (Levy) Order, 1984**.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. *Definitions*.—In this Order, unless the context otherwise requires,—

(a) “common variety of rice” means the type of rice specified in Part-I of the First Schedule ;

(b) “fine variety of rice” means the type of rice specified in Part-II of the First Schedule ;

(c) “miller” means any person who mills paddy either as an owner or a lessee or a manager or a person in charge of a rice mill and includes a person who gets milled paddy on job work basis.

(d) “toamil paddy” with all its grammatical variation and cognate expressions means to mill paddy in a rice mill or by any other method for obtaining rice therefrom ;

(e) “purchase-centre” means—

(i) any place in the City of Ahmedabad as constituted under the Bombay Provincial Municipal Corporations Act, 1949 which is notified as such by the Food and Civil Supplies Controller, Ahmedabad.

(ii) Any place in any area of the State (not being the area of the City of Ahmedabad) which is notified as such by the Collector of the District in which such area is situated ;

(f) “Purchase Officer” means—

(i) in relation to the whole of the State, the Gujarat State Civil Supplies Corporation Limited.

(ii) (a) in relation to the City of Ahmedabad as constituted, under the Bombay Provincial Municipal Corporation Act, 1949, the Deputy Food and Civil Supplies Controller, Ahmedabad.

(b) in relation to any other area of the State the District Supply Officer having jurisdiction over that area, and includes any person or body of persons whether incorporated or not, authorised by the State Government by a notification in the Official Gazette ;

(g) "relevant purchase price",—

(i) in relation to common variety of rice of fair average quality, means—

(a) two hundred and ten rupees and sixty paise per quintal for such rice where the different refractions do not exceed the percentage of tolerance limits specified in column 3 of the Table I in Second Schedule ;

(b) two hundred and ten rupees and sixty paise per quintal of such rice where the different refractions do not exceed the percentage of rejection limits specified in column 4 of the said Table, subject to any deduction made in accordance with the provisions of Column 5 of the said Table.

exclusive of the price of gunny bags in which such rice is contained and the cost of transport ;

(ii) in relation to fine variety of rice of fair average quality, means—

(a) two hundred and sixteen rupees and forty paise per quintal for such rice where the different refractions do not exceed the percentage of tolerance limits specified in column 3 of Table I in the Second Schedule ;

(b) two hundred and sixteen rupees and forty paise per quintal of such rice where the different refractions do not exceed the percentage of rejection limits specified in column 4 of the said Table, subject to any deduction made in accordance with the provisions of column 5 of the said Table,

exclusive of the price of gunny bags in which such rice is contained and the cost of transport ;

(iii) in relation to superfine variety of rice of fair average quality means—

(a) two hundred twentytwo rupees and fifteen paise per quintal for such rice where the different refractions do not exceed the percentage of tolerance limits specified in column 3 of Table II in the Second Schedule ;

(b) two hundred twentytwo rupees and fifteen paise per quintal of such rice where the different refractions do not exceed the percentage of rejection limits specified in column 4 of the said Table II, subject to any deduction made in accordance, with the provisions of column 5 of the said Table,

exclusive of the price of gunny bags in which such rice is contained and the cost of transport ;

Explanation.—Rice shall be deemed to be of fair average quality if it is in sound merchantable condition, sweet, dry, clean, wholesome, of good food value, uniform in colour and size of grain and free from moulds, living insects, smell, discolourations, admixture of deleterious substances or colouring agents and impurities except to the extent indicated in the Second Schedule ;

(h) "rice mill" means the plant and machinery with which and the premises including the precincts thereof in which or in any part of which, paddy is milled ;

(i) "rice receipt" means a receipt in the Form appended to this Order issued by the Purchase Officer under clause 4 ;

- (j) "Schedule" means a Schedule appended to this Order ;
(k) "superfine variety of rice" means the type of rice specified in Part III of the First Schedule ;
(l) "type of rice" means the type of rice as specified in the First Schedule ;
(m) "variety of rice" means common, fine or as the case may be, superfine variety of rice as specified in the First Schedule.

3. *Sale of rice to Purchase Officer.*—(1) (a) Whenever a miller obtains rice by milling paddy in his rice mill he shall, subject to sub clauses (2) and (3), sell to the purchase officer fifteen percent of the total quantity of each type of rice so obtained by him, at the relevant purchase price.

(b) For the purpose of paragraph (a), the quantity of rice obtained shall be calculated at the ratio of 66.66 Kilograms of rice for every 100 Kilograms of paddy milled.

(c) Every miller liable to sell rice to the purchase Officer under paragraph (a) shall send an intimation in writing to the purchase officer giving particulars as to the place where the paddy is milled and quantity of rice obtained.

(d) No miller shall dispose of or otherwise part with the possession of any portion of the rice obtained by him by milling paddy unless and until he has delivered the quantity of the rice due from him under paragraph (a), at the purchase centre.

(e) No miller shall undertake custom milling of paddy without obtaining permit from the Collector or the Food and Civil Supplies Controller, Ahmedabad as the case may be, for quantity of paddy stipulated in the permit.

Provided that rice offered for sale under sub-clause (1) shall conform to the specifications mentioned in the Second Schedule and where in the opinion of the purchase officer the rice offered for sale does not conform to such specifications, he shall direct the person offering the rice to upgrade the rice so as to conform to such specifications :

Provided further that nothing contained in sub-clause (1) shall apply to the quantity of rice obtained by handpounding by the Gujarat Rajya Khadi and Village Industries Board and an institution affiliated thereto if such Board or Institution fulfils the following conditions, namely :—

(a) It maintains a daily correct account of purchase of paddy, production of handpounded rice from paddy, sale of handpounded rice and the stock of paddy and rice held at the close of the day in such form as may be determined by an order made by the State Government ;

(b) It submits to the Mamlatdar and the Director of Food, Sachivalaya, Gandhinagar, a monthly return containing such particulars and in such forms as may be determined by an order made by the State Government.

(2) The purchase officer shall, in taking delivery of the rice under sub-clause (1) pay ninety five percent of the relevant purchase price of the quantity, the variety and the type of rice so delivered and obtained receipt from the seller therefore. The payment of balance of five percent of the price shall be made after making such deductions as per column 5 of the Scheduled assessed on the basis of analysis as provided in sub-clause (3).

(3) The purchase officer shall, as far as possible in the presence of

the seller or his agent, cause to be taken three representative samples of rice delivered under sub-clause (1), hand over one sample to the seller or his agent and out of the other two samples get one of them analysed and retain the other, and determine the price payable on the result of such analysis.

4. *Issue of rice receipt.*—The purchase Officer shall, on taking delivery of rice under clause 3, issue a rice receipt in the Form appended to this order for the quantity of rice so delivered.

5. *Liability of Purchase Officer to make over stock collected to Government.*—A purchase officer shall immediately after the purchase are made at the purchase centre, deliver the quantity of rice so purchased to such place of storage as may be fixed, within the City of Ahmedabad, by the Food and Civil Supplies Controller, Ahmedabad and within any area (not being the areas of the City of Ahmedabad) of the district, by the Collector of the District.

6. *Disputes as to quantity, quality, variety, type of price of rice.*—If any dispute arises as to the quantity, quality, variety, type, or price of rice sold and delivered by a person under this Order, it shall be decided by the Collector of the District or the Food and Civil Supplies Controller, Ahmedabad City, as the case may be, and the decision so given shall be final.

7. *Restriction on export of Paddy.*—No person shall export or attempt to export or abet the export of paddy except under and in accordance with a permit issued with the prior concurrence of the Central Government by the State Government or any officer authorised by the State Government in this behalf :

Provided that nothing contained herein shall apply to the export of paddy—

- (i) not exceeding 5 Kilograms in weight by a bonafide traveller as a part of his luggage; or
- (ii) on Government account; or
- (iii) under and in accordance with military credit notes; or
- (iv) by or on behalf of the Food Corporation of India established under section 3 of the Food Corporation Act, 1964: or
- (v) by or on behalf of the Gujarat State Civil Supplies Corporation Limited.

8. *Power to issue directions.*—Every miller shall comply with such orders and directions as may be given to him by the State Government, the Food and Civil Supplies Controller, Ahmedabad City or the Collector of the District, from time to time, in regard to the implementation of this Order.

9. *Power of the entry search and seizure, etc.*—(1) Any Civil Supplies Officer not below the rank of a Supply Inspector, any Revenue Officer not below the rank of a Deputy Mamlatdar or any Police Officer not below the rank of a Sub-Inspector and any other officer not below the rank of a Class-II Gazetted Officer authorised by the State Government in this behalf, may with a view to securing compliance with this Order and to satisfying himself that this Order has been complied with—

- (i) enter and search any premises, vehicle, vessel or other conveyance with such assistance as may be necessary;
- (ii) ask of any person all necessary questions ;

(iii) examine any books or documents ;
(iv) search and, so far as may be necessary for that purpose, detain any person or seize :—

(a) any stock of rice in respect of which he has reason to believe that a contravention of any of the provisions of this Order has been, is being, or is about to be, committed ;

(b) any package, covering or receptacle in which such rice is found ;

(c) any animal, vehicle, vessel or other conveyance used in carrying such rice if he has reason to believe that such animal, vehicle, vessel or other conveyance is liable to be forfeited under the provisions of the Act ;

(d) any books of accounts or documents which in the opinion of such Officer may be useful or relevant to any proceeding under the Act and the person from whose custody such books of accounts or documents are seized shall be entitled to make copies thereof or to take extract therefrom in the presence of any officer having the custody of such books of accounts or documents ;

(v) take, or cause to be taken, the weight or measure of all or any of the stocks or rice found in any place ;

(vi) direct by an order in writing any person who owns or is in possession of any stock of rice in respect of which he has reason to believe that a contravention of the provisions of this Order has been, is being or is about to be, committed, not to remove or dispose of in any manner such stock of rice and the package, covering or receptacle in which such rice is found and any animal, vehicle, vessel or other conveyance used in carrying such rice without further direction from the Officer making such Order ;

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973 (Act 2 of 1974) relating to search and seizure shall apply to search and seizure under this clause also :

Provided that in any such place or premises be found locked or unoccupied or unattended by or on behalf of the owner or occupier, the same may, in the presence of two witnesses, be broken open and entered into for all or any of the purposes aforesaid.

10. Power to exempt.—(1) The State Government may, if it is necessary in the public interest so to do, by general or special order, exempt any person or class of persons or body of persons, whether incorporated or not from the operation of all or any of the provisions of this Order, for such period and subject to such conditions, if any, as may be specified in such order and may at any time suspend or rescind such order.

(2) No order under sub-clause (1) shall be made by the State Government except with the prior concurrence of the Central Government.

11. Maintenance of account and furnishing of returns.—(1) Every miller shall maintain a correct daily record of—

- (a) the name and address of each person whose paddy is milled,
- (b) the quantity of paddy so milled ; and
- (c) the quantity of rice obtained from the paddy so milled.

(2) Every miller shall submit to the Director of Food, Sachivalaya, Gandhinagar, and the Collector of the District or the Food and Civil Supplies Controller, Ahmedabad City or such other officer as may be authorised

by the State Government in this behalf a fortnightly return in the Third Schedule of the stock of paddy and rice held the quantity of paddy milled whether in his own account or on the account of any other person, and the stock of rice sold or transferred or parted with in any manner during the fortnight and the balance of stock at the end of the fortnight.

12. *Repeal and Saving.*—The Gujarat Rice Procurement (Levy) Order, 1983 is hereby repealed :

that such repeal shall not—

(a) affect the previous operation of the said Order or anything done or suffered thereunder ; or

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Order, on

(c) affect any penalty, forfeiture or punishment incurred in respect of any contravention of the said Order, or

(d) affect any investigation, legal proceeding or remedy in respect of any such right privilege, obligation, liability penalty, forfeiture or punishment as aforesaid ; any such investigation, Legal proceeding or remedy may be instituted, continued or enforced, and any such penalty forfeiture or punishment may be imposed as if the said Order had not been repealed.

THE FIRST SCHEDULE

(See clause 2 (a), (b), (k), (l) and (m) of the Gujarat Rice Procurement (Levy) Order, 1984).

PART—I

Common Variety of Rice

Sr. No.	Type of Rice	Sr. No.	Type of Rice
1.	Vari	17.	Lashkari
2.	Bhariesal	18.	Khadshi
3.	Kada	19.	Formosa
4.	Kada Bhat	20.	Tukdi
5.	Kavchi	21.	Black
6.	Sathi	22.	Ghodapunch
7.	Manjarval	23.	Padma
8.	Kada 176-12	24.	Annapurna
9.	Formosa	25.	Bala
10.	T.N.I.	26.	Cauvery
11.	Dhāndhni	27.	Kanchi
12.	GR-2	28.	Kusuma
13.	Jāya	29.	Patni
14.	IR-8	30.	Vankvel
15.	Masuri	31.	Sarjee-49
16.	Sariu-15-14		

PART—II
Fine Variety of Rice

Sr. No.	Type of Rice	Sr. No.	Type of Rice
32.	Early Kolpy	55.	Chhadel
33.	Fulko	56.	Dhrol
34.	Kalumba	57.	Kanpuri
35.	Kolamkhadsi	58.	Panejia
36.	Snkhvel	59.	Malvi
37.	sutersal	60.	EST 39
38.	Vankli	61.	Vijaya
39.	Z-31 Kolam	62.	Krishna
40.	Z-31	63.	Gosari
41.	Khas Bir Bhatt	64.	Kolhapur Scouted
42.	Kalidok	65.	Hansa
43.	Dabhvel	66.	Khushboi
44.	Kolamsar	67.	Kolam
45.	Kalamdi	68.	K. 42
46.	Kamod-118	69.	Sabarmati
47.	Sathi 34-36	70.	Navagam-2-6
48.	GR-II	71.	Lachkari
49.	Sulihvel-20	72.	Kamod
50.	IR-20	73.	EK-70
51.	GAUR-I	74.	Kaluma
52.	GAUR-100	75.	Suma
53.	CR-138-928	76.	Early.
54.	Elaychi		

PART—III
Superfine variety of Rice

Sr. No.	Type of Rice	Sr. No.	Type of Rice
77.	Tambasar	92.	Vankla
78.	Jirasal	93.	Samalpur Kolam
79.	Zinia	94.	Nadiad-67
80.	Z-31 Bhat	95.	Dangi
81.	Navabi Kolam	96.	Bhusari
82.	Sona	97.	Shivpuri
83.	Navagam-19	98.	Dehradum (Dhrol Pulkoo)
84.	Pankhali-203	99.	Basmati
85.	IR-22	100.	Bengalo
86.	GR-3	101.	Parimal
87.	GAUR-10	102.	Pankhali
88.	Jirasal-280	103.	Sukhari
89.	Ratna	104.	Dehradum Basmati
90.	IR-28	105.	Jamna
91.	G. R. 4	106.	Bengaliu
		107.	Pusa-33.

(See clause 2(g) and clause 3(1) first proviso and 3(2) of the Gujarat Rice Procurement (Levy) Order 1984).

Specifications of Rice

The rice shall be in sound, merchantable condition, sweet, dry, clean wholesome, of good food value, uniform in colour and size of food grains and free from moults, weevils, smell, discolouration, admixture of deleterious substances or colouring agents and all impurities except to the extent in the Tables below, It shall also conform to PFA standards.

TABLE I
Different Refractions for fine and Common Varieties

Sr. No.	Constituents of admixture of impurities	Tolerance limit	Rejection limit	Rate of quality cuts imposed for refractions exceeding tolerance limits
1	2	3	4	5
1.	Brokens Raw	20.00	25.0	T. L. to R. L. at 1/4th the value
	Par Boiled	17.00	22.0	-do-
2.	Foreign Matter Raw	0.5	1.0	T. L. to R. L. at full value,
	Par Boiled	0.5	1.0	-do-
3.	Damaged/Slightly Damaged grains Raw	2.0	2.0	T. L. to R. L. at 1/2nd value
	Par Boiled	3.0	5.0	-do-
4.	Discoloured grains Raw	2.0	4.0	T. L. to R. L. at 1/8th the value.
	Par Boiled	4.0	8.0	-do-
5.	Chalky grains Raw	8.0	12.0	T. L. to R. L. at 1/8th the value.
6.	Red grains Raw	6.0	10.0	T. L. to R. L. at 1/4th value.
	Par Boiled	6.0	10.0	-do-
7.	Admixture of lower classes i. e., common in fine.	10.0	20.0	Over 10% upto 20% at 1/4th value.
	Par Boiled	10.0	20.0	-do-
8.	Dehusked grains Raw	10.0	15.0	T. L. to R. L. at 1/8th value.
	Par Boiled	10.0	15.0	-do-
9.	Moisture Raw	14.0	15.0	T. L. to R. L. at full value.
	Par Boiled	14.0	15.0	-do-

TABLE II
Refractions for superfine Rice Varieties.

Sr. No.	Constituents of admixture of impurities	Tolerance limit	Rejection limit	Rate of quality cuts to be imposed for refractions exceeding tolerance limits.
1	2	3	4	5
1.	Brokens Raw	18.0	23.0	T. L. to R. L. at 1/4th value.
	Par Boiled	13.0	18.0	-do-

1	2	3	4	5
2	Foreign Matter Raw	0.5	1.0	T. L. to R. L. at full value
	Par Boiled	0.5	1.0	Ditto
3	Damaged/Slightly Damaged grains Raw	2.0	4.0	T. L. to R. L. at 1/2nd value
	Par Boiled	2.0	4.0	Ditto
4	Discoloured grains Raw	2.0	3.0	T. L. to R. L. at 1/4th value
	Par Boiled	3.0	5.0	Ditto
5	Chalky grains Raw	4.0	8.0	T. L. to R. L. at 1/4th value (+)
6	Red grains Raw	3.0	6.0	T. L. to R. L. at 1/4th value
	Par Boiled	3.0	6.0	Ditto
7	*Admixture of lower class i.e., common and fine Raw	10.0	20.0	Over 10% to 15% at 1/4th value, over 15% to 20% at 1/2nd value
	Par Boiled	10.0	20.0	Ditto
8	Dehusked grains Raw	10.0	15.0	T. L. to R. L. at 1/8th value
	Par Boiled	10.0	15.0	Ditto
9	Moisture content Raw	14.0	15.0	T. L. to R. L. at full value
	Par Boiled	14.0	15.0	Ditto

Note.—1. The definition of the above refractions and method of analysis are to be followed as given in Indian Standard "Method of Analysis in foodgrains" No. IS-4333 (Part I) 1967 and IS-4333 Part II) 1967.

2. The method of sampling is to be followed as given in Indian Standard "Method of Sampling of cereals and Pulses" No. IS-2814—1964.

3. Broken less than 1/8th of the size of full kernel will be treated as organic foreign matter. The broken of the size of 1/8th to 1/4th shall not exceed 5.0%.

4. Inorganic foreign matter shall not exceed 0.5% in any lot of rice if it is more the stocks should be cleared and brought within the limit.

5. In case of par boiled rice, prepared by pressure par-boiling technique it will be ensured that correct process of par boiling is adopted i.e. pressure applied, the time for which pressure is applied, proper gelatinisation, aeration and drying before milling are adequate so that colour and cooking time of par boiled rice are good and free from encrustations of the grains.

Explanation :—

(+)(1) In the case of a superfine variety of basmati rice, refractions of chalky grains will remain the same as specified for other superfine varieties of rice, however rate of quality but would be 1/8th value where refractions range between tolerance limit and rejection limit.

(*)(2) In the case of superfine variety of basmati rice, where admixture of lower classes and other superfine varieties exceeds rejection limit of

20% it will not be purchased as basmati rice,
THE THIRD SCHEDULE
 (See clause 11(2))

Form of fortnightly return to be submitted by a miller to the Director of Food, Sachivalaya, Gandhinagar and the Collector of the District or the Food and Civil Supplies Controller, Ahmedabad City.

(omitted)

FORM

(See clause 4)

(Rice receipt)

(omitted)

Published in the *Gujarat Govt. Gazette*, Part IV-A, No. 9, dated
 28th February, 1985.

INDUSTRIES, MINES AND POWER DEPARTMENT

No. GU/85/2/CE1/1185/1060/K.—(Sachivalaya, Gandhinagar, 8th January, 1985)—In exercise of the powers conferred by clause 6 of the House Hold Electrical Appliances (Quality Control) Order, 1981, the Government of Gujarat hereby appoints 30th April, 1985 as the date for the purposes of the said clause 6.

Published in the *Maharashtra Govt. Gazette*, Part IV-Ka, dated
 March 14, 1985.

BY THE HIGH COURT OF JUDICATURE AT BOMBAY

No. P. 0803/84.—The Honourable the Chief Justice and Judges of the High Court at Bombay with the previous approval of the Governor of Maharashtra under article 227 of the Constitution of India are hereby pleased to direct that in **Chapter XXXII of the Criminal Manual, 1980, the following amendment shall be made, namely :—**

In Chapter XXXII of the Criminal Manual, 1980, under the heading “ANNUAL STATEMENT No. 15 (CRIMINAL)”,—

(1) below the first statement, in “N. B. I. General”, for the words, figure and letter “in column No. 4A”, the words and figures “in column No. 5” shall be substituted ;

(2) under the sub-heading Instructions,—

(a) in Statement No. 2, in paragraph (i) for the word and figure “column 11” the word and figures “column 14” shall be substituted ;

(b) in Statement No. 9,—

(i) in paragraph (ii), for the words and figures “column 4 to 8” the words and figures “column 4 to 11” shall be substituted ;

(ii) in paragraph (iii), for the word and figure “column 6” the word and figure “column 7” shall be substituted ;

(iii) for the paragraph (iv), the following shall be substituted, namely :—

“(iv) The total of columns 4, 6 and 11 should respectively correspond with the totals of column 6, 7 and 9 of statement No. 11”;

(iv) in paragraph (v), for the words and figures “column No. 9” the words and figures “column No. 12” shall be substituted ;

(v) in paragraph (vi), for the words and figures “column No. 14” the words and figures “column No. 10” shall be substituted ;

(vi) after paragraph (vi) the following shall be added, namely ;—

“(vii) The total of columns 8, 9 and 10 should respectively correspond with the figure in column 8 of statement No. 11.”;

(c) in statement No. 11, in paragraph (vi), for the word and figures “column 11” the word and figures “column 14” shall be substituted.

High Court, Appellate Side,
Bombay, 11th March 1985.

S. D. KARWANDE,
Additional Registrar.

Published in the *Maharashtra Govt. Gazette*, Part IV-Ba, dated
April 18, 1985

FINANCE DEPARTMENT

No PFT. 1080/125/RES-10.—(Mantralaya, Bombay 400 032 dated the 30th March 1985)—Whereas, the Government of Maharashtra, is satisfied that circumstances exist which render it necessary to take immediate action further to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975 (hereinafter referred to as “the principal rules”) and to dispense with conditions of previous publication thereof under proviso to sub-section (3) of section 27 of the Maharashtra State Tax on Profession, Trades, Calling and Employments Act, 1975 (Mah. XVI of 1975) (hereinafter referred to as “the said Act”);

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (2), read with proviso to sub-section (3) of section 27 of the said Act and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the principal rules, namely :—

1. These rules may be called the **Maharashtra State Tax on Professions, Trades, Calling and Employments (Amendment) Rules, 1985.**

(2) They shall come into force on the 1st day of April, 1985.

2. In rule 27 of the Maharashtra State Tax on Professions, Trades, Calling and Employments Rules, 1975 (hereinafter referred to as “the principal rules”), in sub-rule (2), after the words and figures “in Form XVIII” the following shall be added, namely :—

“or in Form XVIII-A”

3. After Form XVIII appended to the principal rules, the following Form XVIII-A shall be inserted, namely :—

FORM XVIII-A

(See rule 27 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975)

Government of Maharashtra 19.....

Refund Payment Orders

FORM XVIII-A

(Refund of Tax under rule 27 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975)

Ward....., Unit....., Place.....,

Pay....., Rupees.....(Rs.....)

being refund for the period from..... to to the holder of R. C. No.

Reserve Bank of India,

Byculla, Bombay.

Profession Tax Officer/Assistant Commissioner
of Profession Tax.

Valid for three months from the date of issue.

FORM NO. XVIII-A

Government of Maharashtra

(For office use only)

R. P. O. No.

(Counterfoil of Tax Refund Payment Order under rule 27 of the
- Maharashtra State Tax on Professions, Trades, Callings and
Employments Rules, 1975)

Ward : Unit : Place :
Refund Sanction Order No.

Date :

Payable at Reserve Bank of India,
Byculla, Bombay

Refund payable to Holder of R. C. No.
Rupees.....(Rs.).

Certified that—

(i) For the period from.....to.....a refund of
Rs. is due to.....

(ii) the amount of tax concerning this refund has been duly credited to
the Government Treasury.

(iii) No refund regarding the sum now in question has previously been
granted and this order of refund has been entered in the file of assessment
under my signature.

Date :

Profession Tax Officer/Assistant Commissioner
of Profession Tax.
(full signature)"

FINANCE DEPARTMENT

No. STR 1085/CR-7/85/RES-7 —(Mantralaya, Bombay 400 032 da-
ted the 30th March 1985)—Whereas as the Government of Maharashtra is
satisfied that circumstances exist which render it necessary to take imme-
diate action further to amend the Bombay Sales Tax Rules, 1959 (hereinafter
referred to as "the principal rules") and to dispense with the condition of
previous publication thereof under sub-section (4) of section 74 of the
Bombay Sales Tax Act, 1959 (Bom LI of 1959) (hereinafter referred to as
"the said Act") ;

Now, therefore, in exercise of the powers conferred by sub-section
(1) and clause (xiv) of sub-section (2), read with proviso to sub-section (4)
of section 74 of the said Act and of all other powers enabling it in that
behalf, the Government of Maharashtra hereby makes the following rules
further to amend the principal rules, namely :—

1. (1) These rules may be called the **Bombay Sales Tax (Amendment)
Rules, 1985.**

(2) They shall come into force on the 1st April, 1985.

2. In rule 50 of the Bombay Sales Tax Rules, 1959 (hereinafter referred
to as "the principal rules"), for the words and figures "in Form 34." the
following shall be substituted, namely :—

"in Form 34 or in 34A."

3. After Form 34 appended to the principal rules, the following Form
shall be inserted, namely :—

FORM 34A

(See rule 50 of the Bombay Sales Tax Rules, 1959)

Government of Maharashtra 19

Refund Payment Order**FORM 34A**

(Under the Bombay Sales Tax Act, 1959, Rule 50 of Bombay

Sales Tax Rules, 1959).

Ward :, Unit :, Place :

Pay Rupees (Rs.)

being refunded for the period from to

to the holder of R. C. No

Reserve Bank of India,

Byculla, Bombay,

Sales Tax Officer/Asstt. Commissioner
of Sales Tax.**FORM NO 34A**

Government of Maharashtra (For office use only)

R. P. O. No.

(Counterfoil of refund payment order under the Bombay Sales

Tax Act, 1959, Rule 50 of Bombay Sales Tax Rules, 1959)

Ward :, Unit :, Place :

Refund Sanction Order No.

Date :

Payable at Reserve Bank of India,
Byculla, Bombay.

Refund payable to

holder of R. C. No: Rupees

(Rs.)

Certified that—

(i) For the period from to a refund
of Rs. is due to(ii) The amount of tax concerning the refund has been duly credited
to Government Treasury.(iii) No refund regarding the sum now in question has previously
been granted and this order of refund has been entered in the file of assessment under my signature.Sales Tax Officer/Asstt. Commissioner
of Sales Tax."

Date

Published in the *Maharashtra Government Gazette*, Part IV-Aa,
dated April 18, 1985**FINANCE DEPARTMENT**

No. CST. 1085/CR-7/85/RES-7.—(Mantralaya. Bombay 400 032, dated the 30th March 1985).—In exercise of the powers conferred by sub-section (3) of section 13 read with section 9-A of the Central Sales Tax Act, 1956 (LXXIV of 1956) and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the Central Sales Tax (Bombay) Rules, 1957, namely :—

1. (i) These rules may be called the **Central Sales Tax (Bombay) (Amendment) Rules, 1985.**

(2) They shall come into force on the 1st April, 1985.

2. In rule 9B of the Central Sales Tax (Bombay) Rules, 1957 (hereinafter referred to as "the principal rules"), in sub-rule (2), for the words letter, brackets and figure 'in Form XI(B),' the following shall be substituted, namely :—

"in Form XI (B) or in Form XI(B) (i).".

3. After Form XI(B) appended to the principal rules, the following shall be inserted, namely :—

"FORM XI(B)(i)

[See rule 9B (2) of Central State Tax (Bombay) Rules, 1957]

Government of Maharashtra 19

Refund Payment Order

FORM NO. XI(B) (i)

[Rule 9B (5) of Central Sales Tax (Bombay) Rules, 1957]

Ward : Unit : Place :

Pay.....

Rupees [Rs.]

being refund for the period from to.....

to the holder of R.C. No.

Reserve Bank of India,

Byculla, Bombay.

Sales Tax Officer/Asstt. Commissioner of Sales Tax

FORM NO. XI (B)(i)

(For office use only)

R.P.O. No.....

Government of Maharashtra

[Counterfoil of refund payment order Rule 9B(2) of Central Sales Tax (Bombay) Rule 1957]

Ward : Units : .. Place : ..

Payable at Reserve Bank of India,
Byculla, Bombay.

Refund Sanction No.

Date :

Refund payable to

holder of R.C./E.C. No.

Rupees..... Rs.....

Certified that—

(i) For the period from to.....a refund of

Rs..... due to

(ii) The amount of tax concerning the refund has been duly credited to the Government Treasury.

(iii) No refund regarding the sum now in question has previously been granted and this order of refund has been entered in the file of assessment under my signature.

Date : Sales Tax Officer/Asstt. Commissioner of Sales Tax."

(Full signature)

Published in the *Maharashtra Government Gazette*, Part IV-Ka,
dated May 16, 1985.

**BY THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE**

No. G/2116.—(*Bombay 400 032, 2nd May 1985*).—The Honourable the Chief Justice and Judges with the previous approval of the Governor of Maharashtra are pleased to make the following amendments in the Rules and Forms of the High Court of Judicature at Bombay (Original Side), 1980 :—

Substitute the following Rule and marginal note for the existing Rule 270 and marginal note thereto on page 44 :—

270. *Charges for certified copies*—(1) The following shall be the rates for obtaining the certified copies of documents :—

(a) For copying and comparing documents, 40 paise per folio of 100 words, or a fraction thereof ;

(b) For copying and comparing documents in tabular form twice the rate mentioned in item (a) ;

(c) For comparing private copies of documents produced for certification as true copies, 20 paise per folio of 100 words or a fraction thereof ;

(d) For copying may or plan such fees not exceeding Rs. 25 and not less than Rs. 2 as the Prothonotary and Senior Master may determine ;

(e) For copying and comparing copies prepared on Xerox Machine Rs. 1.50 paise per page ;

(f) For copying and comparing urgent copies prepared on Xerox Machine Rs. 2.25 paise per page.

(2) When Advocate or a party applies for more than one certified copy of any document, he may also state in the application itself, whether he requires, carbon copies of the said documents. In such cases, the Office shall issue to him a maximum of five carbon copies (in addition to the original certified copy at full rates) and shall charge for each such carbon copy one fourth of the fees prescribed for a single certified copy of the document in question with a minimum of 15 paise.

K. R. BHARUCHA,
Prothonotary and Senior Master,
High Court, Bombay,

Published in the *Gujarat Govt. Gazette*, Part IV-A, No. 17,
dated 25th April, 1985.

HOME DEPARTMENT

No. GH/G/85/105/MVR/1085/113/E2.—(*Sachivalaya, Gandhinagar, 1st April, 1985*).—Whereas the draft rules further to amend the Bombay Motor Vehicles Rules, 1959, were published as required by sub-section (1) of Section 133 of the Motor Vehicles Act, 1939 (IV of 1939). at pages 26.1 to 26.2 of the Gujarat Government Gazette, Extraordinary, Part-IV-A, dated 15th February, 1985, under the Government Notification, Home Department No. GH/G/85/70/MVR/1085/113/E2, dated 15th February, 1985, inviting objections and suggestions from all persons likely to be affected there by.

And whereas no objections and suggestions were received from any person on the said draft by the Government.

Now, therefore, in exercise of the powers conferred by section 41 of the Motor Vehicles Act, 1939 (IV of 1939), read with section 24 thereof, •

the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959, namely :—

1. These rules may be called the **Bombay Motor Vehicles (Gujarat Second Amendment) Rules, 1985.**

2. In the Bombay Motor Vehicles Rules, 1959, in the third Schedule,—

(a) in the entries relating to the Regional Transport Officer, Nadiad, in column 2, in the group of letters applicable to transport vehicles, after the group of letters 'GTJ', the group of the letters 'GQG' shall be inserted.

HOME DEPARTMENT

No. GH/G/85/106/MVR/1083/7766/E-2.—(*Sachivalaya, Gandhinagar, 1st April, 1985*)—Whereas the draft rules further to amend the Bombay Motor Vehicles Rules, 1959, were published as required by sub-section (1) of section 133 of the Motor Vehicles Act, 1939 (IV of 1939), at pages 26.2 to 26.3 of the Gujarat Government Gazette, Extraordinary, Part-IVA, dated 15th February, 1985, under the Government Notification, Home Department No. GH/G/85/71/MVR/1083/7766/E-2, dated 15th February, 1985 inviting objections and suggestions from all persons likely to be affected thereby.

And whereas no objections and suggestion were received from any person on the said draft by the Government.

Now, therefore, in exercise of the powers conferred by section 41 of the Motor Vehicles Act, 1939 (IV of 1939), read with section 24 thereof, the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959, namely :—

1. These rules may be called the **Bombay Motor Vehicles (Gujarat Third Amendment) Rules, 1985**

2. In the Bombay Motor Vehicles Rules, 1959, in the Third Schedule,—

(a) in the entries relating to the Regional Transport Officer, Surat, in column 2, in the group of letters applicable to the vehicles other than transport vehicles, after the groups of letters 'GAU' the groups of letters 'GUC' shall be inserted.

Published in the *Gujarat Govt. Gazette*, Part IV-B, No. 20,
dated 16th May, 1985.

SOCIAL WELFARE DEPARTMENT

No. GHL-10(A)-OPM-1083-31848(84)-M.—(*Sachivalaya, Gandhinagar, 14th March, 1984*).—Whereas certain draft rules further to amend the Gujarat Poppy Capsules Rules, 1963 were published as required by sub-section (3) of section 143 of the Bombay Prohibition Act, 1949 (Bombay XXV of 1949) at page 219-1 to 219-3 of the Gujarat Government Gazette, Extraordinary, Part IV-B, dated 11th October, 1984, under the Government Notification, Social Welfare Department No. GHL-27-OPM-1083-31848 (84)-M, dated the 11th October, 1984 inviting objections and suggestions from all persons likely to be effected thereby till the 30th November, 1984.

And Whereas no objections and suggestions have been received by the Government.

Now, Therefore, in exercise of the powers conferred by clause (b) of sub-section (2) of section 143 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949), the Government of Gujarat hereby make the following rules further to amend the Gujarat Poppy Capsules Rules, 1963, namely :—

1. These rules may be called the **Gujarat Poppy Capsules (Gujarat Amendment) Rules, 1985.**

2. In the Gujarat Poppy Capsules Rules, 1963 in the counterfoil, duplicate, triplicate and quadruplicate of FORM POPPY-3 appended to the said rules, in condition (2) for the figures and words “for 15 days” the figures and words “for 30 days” shall be substituted.

REVENUE DEPARTMENT

No. GHM-55/31(A)/M-STP-1083-1794-H.1 —(Sachivalaya, Gandhinagar, 18th March, 1985).—In exercise of the powers conferred by Section 70 read with section 32-A of the Stamp Act, 1958 (Bom. LX of 1958), the Government of Gujarat hereby makes the following rules further to amend the Bombay Stamp (Determination of Market Value of property) Rules, 1984, namely :—

1. These rule may be called the **Bombay Stamp (Determination of Market Value of property) Amendment Rules, 1985.**

2. In the Bombay Stamp (Determination of Market Value of property) Rules, 1984 (hereinafter referred to as “the said rules”), for rule 9, following shall be substituted, namely :—

“9. **Fine for breach of sub-rule (1) of Rule 3**

(1) Where any person presenting an instrument fails to furnish a statement in Form I as required by sub-rule (1) of rule 3 or furnishes a statement which is not true to the best of his knowledge and belief, he shall be liable to a fine not exceeding five hundred rupees.

(2) Where the Collector or any other officer, authorised by the State Government in this behalf on report from the Registering Officer or otherwise is of the opinion that a person is liable to fine under sub-rule (1), he shall after giving opportunity of being heard, to the person so liable impose such fine not exceeding five hundred rupees as he deems fit.

(3) If the person on whom fine is imposed under sub-rule (2) fails to pay such fine within a period of thirty days from the date of receipt of intimation the amount of fine shall be recoverable at arrears of land revenue.”

3. In the said rules, in Form I appended to the rules after entry 10, for the words “a fine of five hundred rupees” the words “a fine not exceeding five hundred rupees” shall be substituted.

URBAN DEVELOPMENT AND URBAN HOUSING DEPARTMENT

No. GH/V/46 of 1985(A)/SUA-1079 856(85)R.—(Sachivalaya, Gandhinagar, 25th March, 1985).—Whereas certain draft rules further to amend the Gujarat Education Cess Rules, 1962, were published as required by sub-section (3) of section 28 of the Gujarat Education Cess Act, 1962 (Guj. XXXV of 1962) at pages 7-1 to 7-2 of the Gujarat Government Gazette, Extraordinary, Part IV-B under the Government Notification, Urban Development and Urban Housing Department No. K/V/4 of 1985/SUA-1079-5136(84)R, dated the 9th January, 1985 inviting objections and sugges-

tions from all persons likely to be affected thereby, till the 8th February, 1985.

And Whereas the objections and suggestions received in respect of the said draft have been considered by the Government ;

Now, Therefore, in exercise of the powers conferred by section 28 of the Gujarat Education Cess Act, 1962 (Guj XXXV of 1962), the Government of Gujarat hereby makes the following rules further to amend the Gujarat Education Cess Rules, 1962, namely :—

1. These rules may be called **the Gujarat Education Cess (Amendment) Rules, 1985**

2. In the Gujarat Education Cess Rules, 1962, in Rule 5, for the words “the following week” the words “the following fortnight” shall be substituted.

HOME DEPARTMENT

No GH/G/85/98/MVR/1084/5768/E2.—(*Sachivalaya, Gandhinagar, 22nd March, 1985*).—Whereas the draft rules further to amend the Bombay Motor Vehicles Rules, 1959, were published as required by sub-section (1) of Section 133 of the Motor Vehicles Act, 1939 (IV of 1939), at pages 14-1 to 14-3 of the Gujarat Government Gazette, Extra Ordinary, Part-IV-A, dated 25th January, 1985, under the Government Notification, Home Department No. GH/G/85/38/MVR/1084/5768/E2, dated, 23rd January 1985, inviting objections and suggestions from all persons likely to be affected thereby.

And whereas no objections and suggestions were received from any persons on the said draft by the Government.

Now, therefore, in exercise of the powers conferred by clause (e) of sub-section (2) of section 41 of the Motor Vehicles Act, 1939 (IV of 1939) the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Rules, 1959, namely :—

1. These rules may be called **the Bombay Motor Vehicle (Gujarat Tenth amendment) Rules, 1985**.

2. In the Bombay Motor Vehicles Rules, 1959, (hereinafter referred to as the “said Rules”) in the third schedule—

(a) In the entry (XVII) relating to the Regional Transport Officer Bhavnagar, in column 3, for the bracket, figures and words “(776 to 875)” the bracket, figures and word “(801 to 875)” shall be substituted.

(b) After the entry (XVII) relating to the Regional Transport Officer, Bhavnagar the following new entry (XVIII) shall be inserted namely :—

“(xviii) Assistant Regional Transport Officer, Amreli.	GAX	Vehicles other transport vehicles.
	GQS	Transport vehicles.
	GJZ	(776 to 800) vehicles in Possession of dealers in trade certificate”.

(c) In the entries relating to the Assistant Regional Transport Officer, Junagadh in column 2, in the group of letters applicable to the vehicles other than transport vehicles, after the group of letters “GAJ” group of letters “GUJ” shall be inserted.

(d) In the entries relating to the Assistant Regional Transport Officer, Mehsana, in column 2, in the group of letters applicable to the Vehicles other than transport vehicles, after the group of letters "GAQ" the group of letters "GAW" shall be inserted.

(e) In the entries relating to the Assistant Regional Transport Officer, Godhra, in column 2, in the group of letters applicable to vehicles other than transport vehicles after the group of letters "GAM" the group of letters "GUM" shall be inserted.

(f) In the entries relating to the Regional Transport Officer, Ahmedabad City in column 2, in the group of letters applicable to the vehicle other than transport vehicles, after the group of letters "GUI" the group of letters "GUG" shall be inserted.

(g) In the entries relating to the Regional Transport Officer Surat, in column 2, in the group of letters applicable to the transport vehicles, after the group of letters "GIT" the group of letters "GQC" shall be inserted.

3. In the said rules, in the fourth schedule :—

(a) In the entry (XV) relating to the Regional Transport Officer Bhavnagar in column 2, for the words figures "GIW" followed by "9701 to 9800" the words and figures "9626 to 9700", shall be substituted.

(b) After the entry (XVII) relating to the Assistant Regional Transport Officer, Bhuj the following new entry (XVIII) shall be inserted, namely :—

"(XVIII) Assistant Regional Transport Officer, Amreli.	"GJW" followed by 9601 to 9625)"
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Published in the *Gujarat Govt. Gazette*, Part IV-A, No. 22,
dated 30th May, 1985.

INDUSTRIES, MINES AND POWER DEPARTMENT

No. GU-85-(32)(A)-MCR-2177-(100)-253-Chh —(*Sachivalaya, Gandhinagar, 18th April, 1985*).—In exercise of the power conferred by section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957) the Government of Gujarat hereby makes the following rules further amend the Gujarat Minor Mineral Rules, 1966, namely :—

1. (1) These rules may be called the **Gujarat Minor Minerals (1st Amendment) Rules, 1985**.

(2) They shall come into force at once.

2. In the Gujarat Minor Mineral Rules, 1966

(1) In rule 19, for the word "Director" the words "Competent Officer" shall be substituted.

Published in the *Maharashtra Govt. Gazette*, Part IV-Aa,
dated June 6, 1985.

REVENUE AND FORESTS DEPARTMENT

No. SWM 1084/CR-13/A/F6.—(*Mantralaya, Bombay 400 032, dated the 17th May, 1985*).—In exercise of the powers conferred by sub-section (1A) of section 41 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the Bombay Forest Rules, 1942, namely :—

1. These rules may be called the **Bombay Forest (Amendment) Rules, 1985.**

2. In the Bombay Forest Rules, 1942, in rule 88, to sub-rule (3), the following proviso shall be added, namely :—

“Provided that, where the State Government is satisfied, having regard to the facts and circumstances in any case or class of cases and the need for conservation of forests, that any additional conditions, are required to be included in any licence or class of licences, the State Government may, by order, direct that such additional conditions as may be specified in the order shall be included in the licence or class of licences to be granted by the Divisional Forest Officer.”

REVENUE AND FOREST DEPARTMENT

No. SWM. 1084/CR-13/B/F6.—(*Mantralaya, Bombay 400 032, dated the 17th May 1985*).—In exercise of the powers conferred by sub-section (1A) of section 41 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch Areas) Rules, 1960, namely :—

1. These rules may be called the **Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch Areas) (Amendment) Rules, 1985.**

2. In the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch Areas) Rules, 1960, in rule 23, to sub-rule (3), the following proviso shall be added, namely :—

“Provided that, where the State Government is satisfied, having regard to the facts and circumstances in any case or class of cases and the need for conservation of forests, that any additional conditions are required to be included in any licence or class of licences, the State Government may, by order, direct that such additional conditions as may be specified in the order shall be included in the licence or class of licences to be granted by the Divisional Forest Officer.”

REVENUE AND FORESTS DEPARTMENT

No. SWM. 1084/CR-13/C/F6.—(*Mantralaya, Bombay 400 032, dated the 17th May 1985*).—In exercise of the powers conferred by sub-section (1A) of section 41 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, namely :—

1. These rules may be called the **Hyderabad Transit of Forest Produce (Bombay) (Amendment) Rules, 1985.**

2. In the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, in rule 23, to sub-rule (3), the following proviso shall be added, namely :—

“Provided that, where the State Government is satisfied, having regard to the facts and circumstances in any case or class of cases and the need for the conservation of forest, that any additional conditions are

required to be included in any licence or class of licences the State Government may, by order, direct that such additional conditions as may be specified in the order shall be included in the licence or class of licences to be granted by the Divisional Forest Officer."

Published in the *Maharashtra Govt. Gazette* Part IV-Aa, dated
June 13, 1985

HOME DEPARTMENT

No. MVR. 0183/511-TRA-2.—(*Mantralaya, Bombay 400 032, dated the 27th May 1985*).—In exercise of the powers conferred by clause (b) and (f) of sub-section (2) of section 41 of the Motor Vehicles Act, 1939 (IV of 1939), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, further to amend the Bombay Motor Vehicle Rules, 1959, the same having been previously published as required by sub-section (1) of section 133 of the said Act, namely :—

1. These rules may be called the **Bombay Motor Vehicles (First Amendment) Rules, 1985**.

2. In the Bombay Motor Vehicle Rules, 1959, after rule 49, the following rule shall be inserted, namely :—

"49A. *Renewal of registration of motor vehicles other than transport vehicle*.—(1) An application for the renewal of a certificate of registration in respect of a motor vehicle, under sub-section (5) of section 24 of the Act, shall be made four months before the expiry of such certificate and an application for a subsequent renewal thereof shall be made one month before the expiry of such certificate.

(2) The application for renewal of a certificate of registration of a motor vehicle under sub-rule (1), shall be accompanied by the fees prescribed under sub-rule (1A) of rule 54.

(3) (a) The Registering authority, on receipt of an application under sub-rule (2), shall cause the vehicle to be inspected by an Inspector of Motor Vehicle and shall renew the certificate of registration if the vehicle is found to be in mechanically fit condition. Such renewal shall remain valid for a period of five years from the date of the expiry of initial registration, and for a period of one year only in case of subsequently renewal.

(b) On inspection, if the Inspector of Motor Vehicle is satisfied that such vehicle is in a mechanically defective condition he shall issue to the owner thereof a memorandum in form M. V. Ins. to these rules using such items thereof as are applicable to non-transport vehicle and submit a copy thereof to the Registering Authority.

(c) If on receipt of a copy of such memorandum, the Registering Authority has reason to believe that owing to the mechanical defects, the vehicle is in such condition that its use in a public place constitutes a danger to the public, or that it fails to comply with the requirements of Chapter V of the Act or of the rules made thereunder, he may, by order, refuse to renew the certificate of registration in respect of that vehicle and shall furnish the applicant, a copy of such order, together with the reasons for such refusal.

(4) The Registering Authority shall record below the certificate of registration of the vehicle, the date of every inspection and whether it was found in mechanically fit or defective condition".

3. In rule 54 of the principal rules,—

(a) for the heading "Registration fee", the heading "Fees for issue and renewal of certificate of registration" shall be substituted; and

(b) after sub-rule (1), the following sub-rule shall be inserted, namely :—

"(1A) The fee for renewal of a certificate of registration of a motor vehicle, other than a transport vehicle, shall be—

- | | | |
|---|-----|----------------------|
| (i) in respect of an invalid carriage | ... | five rupees ; |
| (ii) in respect of a motor cycle | ... | ten rupees ; |
| (iii) in respect of a light motor vehicle | ... | twenty-five rupees ; |
| (iv) in respect of any other vehicle | ... | fifty rupees". |

4. In Rule 55 of the principal rules,—

(a) for the heading "*Exemption from payment of registration fees*" the heading "*Exemption from payment of fees for registration and renewal of registration*" shall be substituted ; and

(b) for the words "shall be exempted from payment of registration fee", the words "shall be exempted from payment of fees for registration and renewal of registration" shall be substituted.

5. For rules 202-A of the principal rules, the following shall be substituted, namely :—

"202-A. *Inspection of motor vehicles, other than transport vehicles.*—Notwithstanding anything contained in rule 49A, if the Registering Authority has reason to believe that owing to the mechanical, defects any vehicle, other than a transport vehicle, is in such condition that its use in a public place constitutes a danger to the public, or that it fails to comply with the requirements of Chapter V of the Act or of the rule made thereunder, he may cause such vehicle to be inspected by an Inspector of Motor Vehicles and after giving the owner an opportunity of making any representation as required under sub-section (1) of section 33, suspend the certificate of registration of the vehicle under the said section till such time as the vehicle is produced for inspection duly repaired.

REVENUE AND FORESTS DEPARTMENT

No. PWR. 1082-CR-II-67-L-2.—(*Mantralaya, Bombay 400 032, dated the 7th May, 1985*).—In exercise of the powers conferred by sub-section (1) and clauses (xxvii), (lxi) and (lxii) of sub-section (2) of section 328 read with sections 75, 239 and 327 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966) ; and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, further to amend the Maharashtra Land Revenue (Inspection, Search and Supply of Copies of Land Records) Rules, 1970, the same having been published as required by sub-section (1) of section 329 of the said Code, namely :—

RULES

1. These rules may be called the **Maharashtra Land Revenue (Inspection Search and Supply of Copies of Land Records) (Amendment) Rules, 1985.**

2. In rule 4 of the Maharashtra Land Revenue (Inspection, Search and Supply of Copies of Land Records) Rules, 1970 (hereinafter referred to as "the principal rules"), in the Schedule, thereto—

(A) in entry 1, in column 3, for the letter and figures "Rs. 15" the letters and figures "Rs. 22.50" shall be substituted ;

(B) In entry 2,—

(1) in clause (a), column 3, for the letters and figure "Rs. 2", the letters and figures "Rs. 3" shall be substituted ;

(2) in clause (b), in column 3, for the letters and figure "Re. 1" the letters, figure "Rs. 1.50" shall be substituted ;

3. In rule 7 of the principal rules, in the schedule—

(a) in entry 1, in column 3, for the letters and figures "Rs. 15.00" the letters and figures Rs. "22.50" shall be substituted ;

(b) in entry 2,

(1) against clause (a), in column (3), for the letters and figures "Rs. 5" the letters and figures "Rs. 7.50" shall be substituted ;

(2) against clause (b) in column 3, for the letters and figure "Rs. 2" the letters and figure "Rs. 3" shall be substituted ;

4. In rule 12 of the principal rules,

(A) in Schedule A—

(1) in entry 1, in column 3, for the letters, figures and word "Rs. 0.50 paise" the letters and figures "Rs. 0.75" shall be substituted ;

(2) in entry 2, in column 3, for the letter and figures and word "Re. 0.50 paise" the letters, and figures "Re. 0.75" shall be substituted ;

(3) in entry 3,—

(a) in clause (i), in column 3, for the letters and figure "Re. 1" the letters and figures "Rs. 1.50" shall be substituted ;

(b) in clause (ii), in column 3, for letters, figures and word "Rs. 0.50 paise" the letters and figures "Re. 0.75" shall be substituted ;

(4) in entry 4, in column 3, for the words, letters and figures "Ten paise for every rupee of the amount of alternated revenue subject to the minimum of Rs. 2 and maximum of Rs. 15" the words, letters and figures "Fifteen paise for every rupee of the amount of alienated revenue subject to the minimum of Rs. 3 and maximum of Rs. 22.50" shall be substituted ;

(5) in entry 5, in column 3, for the words, letters and figures "One Rupee for every survey number or sub-division of a survey number subject to the minimum of Rs. 2" the letters, figures and words, "Rs. 1.50 for every survey number or sub-division of a survey number subject to the minimum of Rs. 3" shall be substituted ;

(6) in entry 6, in column 3, for the letters and figure "Rs. 2" the letters and figure "Rs. 3" shall be substituted ;

(7) in entry 7,—

(a) in clause (i), in column 3, for the letters and figure "Rs. 5" the letters and figures "Rs. 7.50" shall be substituted ;

(b) in clause (ii), in column 3, for the letters and figure "Rs. 2" the letter and figure "Rs. 3" shall be substituted ;

(8) in entry 8,—

(a) in clause (i), in column 3, for the letters, figures and word "Rs. 0.50 paise" the letters and figure "Rs. 0.75" shall be substituted ;

(b) in clause (ii), in column 3, for the letters and figure "Rs. 1" the letter and figure "Rs. 1.50" shall be substituted ;

(9) in entry 9, in column 3,—

(a) for the letters and figure "Rs. 30" and for the letters and figure "Rs. 2" the letters and figures Rs. 45" and the letters and figure "Rs. 3" shall be substituted, respectively ;

(b) in the proviso, for the letters and figures "Rs. 10" the letters and figures "Rs. 15" shall be substituted ;

(10) in entry 10, clause (i) in column 3, for the letters and figure "Rs. 2" the letters and figure "Rs. 3" shall be substituted ;

(11) in entry 11,—

(a) in clause (i), in column 3, for the letters and figures "Rs. 2.00" letter and figure "Rs. 3" shall be substituted ;

(b) in clause (ii), in column 3, for the letters and figure "Re. 1" the letters and figure "Rs. 1.50" shall be substituted ;

(B) in Schedule B, under the heading "For the City of Bombay"—

(1) in entry 1,

(a) in clause (a), in column 3, for the letters and figures "Rs. 10" the letters and figures "Rs. 15" shall be substituted ;

(b) in clause (b), in column 3, for the letters and figures "Rs. 12" the letters and figures "Rs. 18" shall be substituted ;

(c) in clause (c), in column 3, for the letters and figures "Rs. 14.00" the letters and figures "Rs. 21" shall be substituted ;

(d) in clause (d), in column 3, for the letters and figures "Rs. 17" the letters and figures "25.50" shall be substituted ;

(e) in clause (e), in column 3, for the letters and figures "Rs. 25" the letters and figures "Rs. 37.50" shall be substituted ;

(f) in clause (f), in column 3, for the letters and figures "Rs. 35" the letters and figures "Rs. 52.50" shall be substituted ;

(2) in entry 2,—

(a) in clause (a), in column 3, for the letters and figures "Rs. 11" the letters and figures "Rs. 16.50" shall be substituted ;

(b) in clause (b), in column 3, for the letters and figures "13" the letters and figures "19.50" shall be substituted ;

(c) in clause (c), in column 3, for the letters and figures "Rs. 15.00" the letters and figures "Rs. 22.50" shall be substituted ;

(d) in clause (d), in column 3, for the letters and figures "Rs. 18.00" the letters and figures "Rs. 27.00" shall be substituted ;

(e) in clause (e), in column 3, for the letters and figures "Rs. 30" the letters and figures "Rs. 45" shall be substituted ;

(f) in clause (f), in column 3, for the letters and figures "Rs. 40" the letters and figures "Rs. 60" shall be substituted ;

(3) in entry 3, in column 3, for the letters and figures "Rs. 5" the letters and figures "Rs. 7.50" shall be substituted ;

(4) in entry 4, in column 3, for the letters and figures "Rs. 4" the letters and figures "Rs. 6" shall be substituted ;

Published in the *Maharashtra Govt. Gazette*, Part IV (Ka), dated 19th August, 1985

BY THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT AUTHORITY

No. MH/EMR/1084/21544/EM-9.—(Griha Nirman Bhavan, Bandra (East), Bombay 400 051, dated the 8th August 1985)—In exercise of the powers conferred by sub-section (1) of section 185 of the Maharashtra Housing and Area Development Act 1976 (Mah. XXVIII of 1977), read with section 28 and 64 of the said Act and rule 17 of the Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981, and of all other powers enabling it in that behalf the Maharashtra and Area Development Authority, with the previous sanction of the Government of Maharashtra, hereby makes the following regulations further to amend the Maharashtra Housing and Area Development (Estate Management, Sale, Transfer and Exchange of Tenements) Regulations, 1981, namely:—

1. *Short title.*—These Regulations may be called the Maharashtra Housing and Area Development (Estate Management, Sale, Transfer and Exchange of Tenements) (Amendment) Regulations, 1985.

2. *Substitution of Regulation 16.*—For Regulation 16 of the Maharashtra Housing and Area Development (Estate Management, Sale Transfer and Exchange of Tenements) Regulations, 1981, the following Regulation shall be substituted namely:—

“16. *Allotment of tenements by Board on direction of State Government.*—(1) Notwithstanding anything contained in these Regulations but subject to the provisions of clauses (2) and (3), the Board may allot any tenements in any building to any person according to the direction of the State Government:

Provided that tenements already advertised for allotment for members of the public shall not be so allotted.

(2) The number of tenements to be so allotted shall be restricted to the extent of 2 per cent of the total number of tenements in building the tenements in which are notified for the first time, by issuing advertisement or otherwise, for disposal in accordance with the provisions of these regulations in the year under each of the Economically Weaker Section, Lower Income Group, Middle Income Group and Higher Income Group category by the authority through its Boards. The State Government may release any of the tenements earmarked earlier for it for a category under any scheme in any city, town or area under this Regulation and direct the Board to allot in lieu thereof a tenement in the same category in any other scheme in the same city, town or area if it is still available for allotment to any person intimated by the State Government.

(3) The tenements in any scheme remaining unallotted even after the issue of two advertisements as provided in these Regulations shall be deemed to be available for the purposes of this Regulation and may, if so directed by the Government be allotted by the Board to Government nominees, within the quota specified in clause (2).”

Published in the *Maharashtra Govt. Gazette* Part IV (Ka) dated July 18, 1985

HOME DEPARTMENT

No MCT. 0285/163-TRA-6.—(Mantralaya, Bombay 400 032, dated the 24th June 1985)—Whereas by Government Notification, Home Department (Transport), No. MCT. 0283/2-TRA-6, dated the 16th June 1984 (hereinafter referred to as "the said notification"), the Government of Maharashtra regulated the distribution of business before the Claims Tribunal and the three Additional Claims Tribunals for the area comprised within the limits of Municipal Corporation of Greater Bombay ;

And whereas the Additional Claims Tribunal having remained vacant, the matters pertaining to the year 1981 and 1982 as mentioned in sub-clauses (ii) and (iii) of clause (e) of the said notification, were not taken up for hearing before the said Additional Claims Tribunal ;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 110 of the Motor Vehicles Act 1939 (IV of 1939) and in partial supersession of the said notification in so far it relates to the matters mentioned in clauses (ii) and (iii) of clause (e) thereof the Government of Maharashtra hereby redistributes those matters between the Additional Claims Tribunal and the Third Additional Claims Tribunal as follows, namely :—

(a) claim applications pending before the Additional claims Tribunal pertaining to the year 1981 and 1982 (including part-heard matters) mentioned in sub-clause (ii) and (iii) of clause (e) of the said notification shall be heard and decided by the Third Additional Claims Tribunal, in addition to the matters already distributed thereto ;

(b) such claim applications pending before Third Additional Claim Tribunal pertaining to the year 1984 (excluding Transfer applications Nos. 1, 2 and of 1984 transferred by the Supreme Court) as per item (4) of paragraph (D) of sub-clause (iii) of clause (e) of the said notification shall be heard and decided by the Additional Claims Tribunal, in addition to the matters already distributed thereto except the matters for the year 1981 and 1982 :

Provided that such applications made to the Claims Tribunals and the three Additional Claims Tribunals before the date of publication of this notification in the *Official Gazette* which are part-heard on such date shall continue to be heard and decided respectively by each of them, as the case may be, as if this notification had not been issued.

Published in the *Maharashtra Gazette*, Part IV(Ba.), dated March 28, 1985.

RURAL DEVELOPMENT DEPARTMENT

No. ZPR. 6085/CR-6/64.—(Mantralaya, Bombay 400 032, dated the 8th March, 1985)—In exercise of the powers conferred by clause (xiii) of sub-section (2) of section 274, read with clause (a-a) of sub-section (1) of section 58 of the Maharashtra Zilla Parishad and Panchayat Samitis Act. 1961 (Mah. V of 1962), and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following rules the same having previously been published as required by sub-section (3) of the said section 274, namely :—

1. *Short title.*—These rules may be called the *Maharashtra Panchayat Samitis Scheduled Castes and Scheduled Tribes (Manner and Periodicity of Rotation of Reservation of Seats) Rules, 1985.*

2. *Definitions.*—In these rules, unless the context requires otherwise,—

(a) “Act” means the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 ;

(b) “electoral college” means an electoral college determined under clause (a) of sub-section (1) of section 58 ;

(c) “electoral division” means an electoral division of a district constituted under section 12 ;

(d) “section” means a section of the Act.

3. *Power of the State Government to decide the rotation of seats for the Scheduled Castes and Scheduled Tribes.*—Subject to the provisions of rules 4 and 5 where the population of an electoral college in any Block consists of Scheduled Castes or Scheduled Tribes and a seat has been reserved for such Castes or Tribes in such electoral college immediately before the commencement of these rules, then the seat so reserved shall be rotated to the electoral college in which no seat has been reserved for them immediately before such commencement and in which the percentage of population of such Castes or Tribes is the highest and so on until the electoral college in that Block having the percentage of population of not less than one per cent of such Castes or Tribes is reached.

4. *Permanent Reservation*—Subject to the provisions of rule 5 where in a Block, the electoral colleges consist of the population of the Scheduled Castes or Scheduled Tribes of not less than two thirds of the total population and a seat has been reserved in each of such electoral college for such Castes or Tribes immediately before the commencement of these rules then the question of rotation of seats to any other electoral college in that Block does not arise.

5. *Declaration of rotation of reservation.*—The State Government may by notification in the *Official Gazette*, declare its intention of rotating the seat reserved for Scheduled Castes or Scheduled Tribes in any electoral college under clause (a-a) of sub-section (1) of section 58 immediately before the commencement of these rules to such electoral college as may be specified in the notification. The notification shall state that any objections and suggestions which may be received by the State Government within a period of not less than seven days to be specified in the notification, shall be considered by the State Government.

6. *Rotation of reservation.*—The seat reserved for Scheduled Castes or Scheduled Tribes in any electoral college may be rotated not earlier than six months before the date of expiry of the term of office of the members of the *Panchayat Samiti* of the Block.

Published in the *Maharashtra Govt. Gazette*, Part IV-Ka,
dated July 11, 1985,

BY THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

No. PR (Revn)/0703/73.—The Honorable the Chief Justice and Judges of the High Court at Bombay, with the previous approval of the Governor of Maharashtra under the proviso to clause (3) of article 227 of the Constitution of India, are hereby pleased to direct that the following amend-

ments be made in the Civil Manual, 1960.

In Chapter XXVI of the Civil Manual, 1960 in paragraph 504, after sub-paragraph 13, the following shall be inserted, namely :—

“13-A. (i) Certified copy prepared on Xerox machine shall be charged at the rate of Rs. 1 and 50 paise, per page ;

(ii) Urgent copy shall be charged one and half times the rate for an ordinary copy prepared on a Xerox machine. •

(iii) Charges for vernacular certified copies prepared on a Xerox machine shall be at the same rates specified above.”

High Court, Appellate Side,
Bombay, 17th September, 1984.

V. Y. GUPTA,
Additional Registrar.

Published in the *Maharashtra Government Gazette*, Part IV, (Aa),
dated June 27, 1985:

REVENUE AND FOREST DEPARTMENT

No. TRS. 1083/91882(I)/CR-87-F6,—(*Mantralaya, Bombay 400 032, dated the 31st May, 1985*)—In exercise of the powers conferred by sub-section (2) of section 1 of the *Indian Forest (Maharashtra Amendment) Act, 1984* (Mah. VII of 1985), the Government of Maharashtra hereby appoints the 1st day of June, 1985; to be the date on which the said Act shall come into force in the whole of the State of Maharashtra.

Published in the *Maharashtra Govt. Gazette*, Part IV(Ba), dated
June 27, 1985.

AGRICULTURE AND CO-OPERATION DEPARTMENT

No. APM. 20785/4998/II/11-C.—(*Mantralaya Annexe, Bombay 400 032, dated the 18th April 1985*)—In exercise of the powers conferred by sub-section (1) and clause (d) of sub-section (2) of section 60 of the *Maharashtra Agriculture Produce Marketing (Regulation) Act 1963* (Mah. XX of 1964), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following Rules further to amend the *Maharashtra Agricultural Produce Marketing (Regulation) Rules, 1967*, the same having been previously published as required by sub-section (3) of the said section 60, namely :—

1. These rules may be called the *Maharashtra Agricultural Produce Marketing (Regulation) (Amendment) Rules, 1985*.

2. After rule 35 of the *Maharashtra Agriculture Produce Marketing (Regulation) Rules, 1967* (hereinafter referred to as “the principal rules”), the following new rules shall be inserted, namely :—

“35-A. *Preparation of list of voters for elections to Bombay Agricultural Produce Market Committee.*—(1) For the purpose of electing representatives of agriculturists of the Bombay Agriculture Produce Marketing Committee under sub-clause (i) of clause (a) of sub-section (1-A) of section 13 of the *Maharashtra Agriculture Produce Marketing (Regulation) Act, 1963* (Mah. XX of 1964), the Collector of Bombay shall call upon the District Deputy Registrars Co-operatives Societies of all the districts in each of Revenue Divisions in the State, to furnish to him a list of agriculturist members of Agricultural Produce Market Committees within their respective jurisdiction elected under clause (a) of sub-section (1) of section 13 of the Act, before the date specified in that behalf by him.

(2) On receipt of such lists the Collector of Bombay shall prepare a voters' list separately for each of the Revenue Division and every such list shall be published on the notice board of the respective offices of the Collector, Bombay the District Deputy registrar of Co-operative Societies and office of the Collectors of the respective districts in the respective Revenue Division and in any other manner as the Collector of Bombay may deem fit.

35-B. *Application of certain other rules relating to list of voters nomination papers, election procedure of the elections to Bombay Agricultural Produce Market Committee.*—Save as otherwise provided in these rules the provisions of rules 36 to 39, 41 to 82, 83 (1) and 84 to 90 shall apply *mutatis mutandis* to the elections of members of the Bombay Agricultural Produce Market Committee.

35-C *Nomination of representative to Bombay Agricultural Produce Market Committee.*—For the purpose of nomination of members under sub-clauses (iii), (iv) and (vi) of clause (a) of sub-section (1-A) of section 13, the Collector of Bombay shall call upon the Maharashtra State Agricultural Marketing Board, the Municipal Corporation of Greater Bombay and the Maharashtra State Co-operative Marketing Federation Limited, Bombay respectively to communicate the name of their respective representative before the date which the Collector of Bombay may specify, in that behalf.

3. In rule 38 of the principal rules, after sub-rule (3), the following new sub-rule shall be inserted, namely:—

“(4) Every person whose name is included in the list of voters prepared under rule 35-A shall, unless disqualified under these rules, be qualified to be elected to the Bombay Agricultural Produce Market Committee.”.

4. In rule 83 of the principal rules in sub-rule (2), after the word, brackets and figures “of sub-section (1)” the following words, brackets, letters shall be inserted, namely:—

“or sub-clauses (iii), (iv), (v), (vi) and (vii) of clause (a) of sub-section (1-A) as the case may be.”.

Published in the *Maharashtra Govt. Gazette* Part IV, (Aa) dated,
August 1, 1995

FOOD AND CIVIL SUPPLIES DEPARTMENT

No. ECA-9685/1220/(1633)/XXIII.—(Mantralaya Annexo, Bombay 490 032, dated the 19th July 1985)—In exercise of the powers conferred on the Central Government by sub-section (1) and clauses (d), (ii) and (j) of sub-section (2) of section 3 of Essential Commodities Act, 1955 (10 of 1955) delegated to the Government of Maharashtra by the Government of India Ministry of Industries and Civil Supplies (Department of Civil Supplies and Co-operation), Order S. O. 681 (E), dated the 30th November 1974, the Government of Maharashtra hereby makes the following Order, namely:—

1. *Short title extent and commencement.*—(1) This order may be called the *Maharashtra Cattle Fodder (Transport Control) Order, 1985.*

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force in Nashik and Dhule Districts at once and in other District or Districts on such date as the State Government

may, by notification in the *Official Gazette* appoint but the State Government may from time to time, by notification in the *Official Gazette* direct that it shall cease to be in force in any district on such date or that it shall come into force in any such District again on any such subsequent date as may be specified in that notification.

2. *definitions*.—In this order, unless the context otherwise requires,—

(a) “Act” means the Essential Commodities Act, 1955 (10 of 1955);
 (b) “Bombay Rationing Area”, means the area specified as such in Schedule ‘A’ to the Maharashtra Foodgrains Rationing (Second) Order, 1966;

(c) “Cattle Fodder” means any one or more varieties of cattle fodder specified in Schedule I;

(d) “Collector”, in Greater Bombay, means the Controller of Rationing and includes any Deputy or Assistant Controller of Rationing and elsewhere means the Collector of the district and includes any Assistant or Deputy Collector or the District Supply Officer, Assistant District Supply Officer, Foodgrains Distribution Officer, or any other Officer authorised by the Collector of a District in this behalf;

(e) “District” shall have the meaning assigned to it in the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), and includes Greater Bombay;

(f) “Schedule” mean a Schedule to this Order;

(g) “Transport” means movement from one place to another within the State.

3. *Persons not to transport cattle fodder without authorisation from any districts*.—No person shall transport, attempt to transport or abet the transport of any cattle fodder from any district in the State in which this order is in force to any area in the State outside the said district, except under and in accordance with an authorisation granted by the Collector having jurisdiction over the area from which such transport is to take place:

Provided that, no such authorisation shall be necessary in respect of—

(a) the transport of cattle fodder on Government account; or

(b) the transport of cattle fodder under and in accordance with Military Credit Notes.

4. *Form of authorisation for transport*.—An authorisation for the purpose of clause 3 shall ordinarily be in the form set for in Schedule II.

5. *Powers of entry, examination, search and seizure etc.*—(1) Any police officer not below the rank of Sub-Inspector or any officer of the Government of Maharashtra in the Food and Civil Supplies Department or the Revenue Department not below the rank of Rationing Inspector in the Bombay Rationing area and elsewhere, not below the rank of the Supply Inspector may, within their respective jurisdiction, with a view to securing compliance of this order or satisfying himself that this order has been complied with—

(a) Stop and search any person or any boat, vessel, motor or other vehicle or any receptacle used or intended to be used for the transport of cattle fodder;

(b) enter, search or examine any place.

(c) seize—

(i) any stocks of cattle fodder in respect of which he has reason to believe that a contravention of any provisions of this order has been or is being, or is about to be, committed ;

(ii) any packages, coverings or receptacles in which such stock of cattle fodder is found ;

(iii) the animals, vehicles, vessels or other conveyances used in carrying such cattle fodder if he has reason to believe that such animals, vehicles, vessels or other conveyances are liable to be forfeited under the provisions of the Act and thereafter ;

(iv) take or authorise the taking of all measures, necessary for securing the production of the packages, coverings receptacles, animals, vehicles, vessels or other conveyance so seized before the Controller of Rationing in the Bombay Rationing Area, and elsewhere, before the Collector of the district or the State Government authorised to hear appeal under section 6-C of the Act, if required to do so, and for their safe custody pending such production ;

(d) examine or seize any books of accounts or documents which in his opinion would be useful for, or relevant to, any proceedings in respect of any contravention of this order and allow the persons from whose custody such books of accounts or documents are seized to make copies thereof or to take extract therefrom in his presence.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to searches and seizures under this clause.

6. *Appeal*.—(1) Any person aggrieved by an order made by any officer under this order may,—

(a) If the order is made by any officer lower in rank than that of the Collector of the district appeal to the Collector of the district :

(b) If the order is made by the Collector of the district, appeal to the Commissioner.

(2) No such appeal may be entertained if not preferred within thirty days from the date of receipt of the order appealed against by the appellant.

(3) No order shall be passed under this clause, which adversely affects any person unless such person has been given a reasonable opportunity of being heard.

7. *Power to call for and examine the record of proceedings and revise orders*.—The State Government may, at any time, during the pendency of any inquiry or proceedings or within ninety days from the date of any order passed by any officer under this order, on an application or *suo-motu* stay any pending inquiry or proceedings or the enforcement of such order if considered necessary and may call for and examine the records of any such inquiry or proceedings and pass such order thereon as it thinks fit :

Provided that the State Government shall not pass any order under this clause which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

8. *Exemption*.—Nothing in this order shall apply—

(i) to a corporation or company owned or controlled by the Central Government or a State Government, or

(ii) to any Central level or State level Co-Operative Society engaged in the production, procurement, sale, purchase or distribution of cattle fodder, or

(iii) to the transport of cattle fodder brought from other Districts or State to its place of delivery in the district.

9. *Repeal and Savings.*—The Maharashtra Cattle Fodder (Transport Control) Order, 1982, is hereby repealed :

Provided that such repeal shall not affect—

(a) the previous operation of the said order or any thing duly done or suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said order; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said order ; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment, may be imposed as if the said order had not been repealed.

SCHEDULE I

[See clause 2(c)]

Cattle fodder of any category including—

1. Hay.
2. Bhuga.
3. Gowar.
3. Karab or Karabi or Kadba of Pendha.
5. Grass.

SCHEDULE II

(See clause 4)

Form of Authorisation

Shri/Smt./Kumari is hereby authorised to transport..... moulds sheaves/bags/quintals/kilograms of by road/rail/water from..... village, taluka..... district..... of the State of Maharashtra, within..... days from the date of issue of this authorisation.

Signature and designation of the
Officer granting the authorisation.

Published in the *Gujarat Govt. Gazette*, Part IV-B, No 24, dated June 13, 1985.

SOCIAL WELFARE DEPARTMENT

No. GH-L-13-FIR-1083-CM-2624 (II)-M.—Sachivalaya, Gandhinagar, 22nd April, 1985.) Whereas the Government of Gujarat considers that rules hereinafter appearing should be brought into force at once;

And whereas the Government considers that the rules should be made without previous publication;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 143 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949), read with the proviso to sub-section (3) of the said section 143 and all other powers enabling it in this behalf, the Government of Gujarat hereby makes the following rules further to amend the Bombay Foreign Liquor Rules, 1953, as follows, namely :—

1. These rule may be called the **Bombay Foreign Liquor (Gujarat**

Amendment) Rules, 1985.

2. In the Bombay Foreign Liquor Rules, 1953 (hereinafter referred to as "the said Rules"), in rule 64,—

(i) in sub-rule (4), for the words and figures "on payment of a fee of Rs. 20" the words and figures "on payment of fee of Rs. 50" shall be substituted; and

(ii) in sub-rule (5), for the words "shall not exceed six months in any case" the words "shall not exceed twelve months in any case" shall be substituted.

3. In the said rules, after Rules 64A, the following shall be inserted, namely :—

"64-B(1) Health Permit to certain persons without medical examination—.

(1) Notwithstanding anything contained in rule 64, a health permit may be granted to an applicant without undergoing any medical examination by the Area Medical Board or the State Medical Board for a quantity not exceeding two units of foreign liquor if the applicant—

(a) was residing in the State other than the State of Gujarat where the consumption of alcoholic liquor is not prohibited by Law or where the consumption of such liquor is prohibited by Law, he was consuming such liquor under a permit or other authorisation and he resided in such other State for a period not less than ten years;

(b) is the resident of India but had resided in any foreign country for a period not less than five years where the consumption of alcoholic liquor is not prohibited by law;

(c) is a retired member of the Armed Forces.

(2) Such applicant shall produce a medical Certificate issued by any member of the Area Medical Board or his family doctor to the effect that the applicant required foreign liquor for the preservation and maintenance of his health."

FINANCE DEPARTMENT

No. (GHN 44) GSR 1085/(43) : TH.—(*Sachivalaya, Gandhinagar, 1st June, 1985*)—Whereas Certain draft rules further to amend the Gujarat Sales Tax Rules, 1970 were published as required by sub-Section (4) of section 86 of the Gujarat Sales Tax Act, 1969 (Guj. 1 of 1970), at pages 66.1 to 66.2 of the Government of Gujarat Gazette, Extra-Ordinary, Part IV—B dated the 1st April, 1985 under the Government Notification, Finance Department No. (GHN-23) GSR-1085/(42) TH, dated the 26th March, 1985 inviting objections or suggestions till the 30th April, 1985 from all persons likely to be affected thereby ;

And whereas no objections and suggestions, were received from the public.

Now, therefore, in exercise of the powers conferred by section 86 of the Gujarat Sales Tax Act, 1969 (Guj. 1 of 1970), the Government of Gujarat hereby makes the following rules further to amend the Gujarat Sales Tax Rules, 1970, namely :—

1. These rules may be called the **Gujarat Sales Tax (Amendment) Rules, 1985.**

2. In the Gujarat Sales Tax Rules, 1970, in rule 25, in sub-rule (1) in clauses (a), (c) and (d), for the words letters and figures "exceeds Rs. 3

lakhs" the words, letters, and figures "exceeded Rs. 5 lakhs, shall be substituted.

Published in the *Maharashtra Govt. Gazette*, Part IV-Ba, dated April, 18, 1985.

MEDICAL EDUCATION AND DRUGS DEPARTMENT

No. Act 1932/1702/MED-8 —(*Mantralaya, Bombay 400 032, dated the 21st March, 1985*)—In exercise of the powers conferred by clause (b) and (c) of sub-section (2) of section 30 of the Maharashtra Medical Practitioners' Act, 1961 (Mah. XXXVIII of 1961), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the Maharashtra Board and Faculty of Ayurvedic and Unani System of Medicine Rules, 1961, the same having been previously published as required by sub-section (1) of the said section 30, namely :—

1. These rules may be called the *Maharashtra Board and Faculty of Ayurvedic and Unani Systems of Medicine (Amendment) Rules, 1985*.
2. In rule 1 of the Maharashtra Board and Faculty of Ayurvedic and Unani Systems of Medicine Rules, 1961 (hereinafter, referred to as "the principal rules"), for the words and figures "These rules may be called the Maharashtra Board and Faculty of Ayurvedic and Unani Systems of Medicine Rules, 1961", the words and figures "These rules may be called the Maharashtra Council of Indian Medicine Rules, 1961" shall be substituted.
3. In rule 2 of the principal rules in clause (b) for the words "Board or the Faculty", the word "Council" shall be substituted.
4. In the principal rules after rule 2, for sub-heading "Part-II—Meetings of the Board and Faculty", the words "Meetings of the Council" shall be substituted.
5. In rule 3 of the principal rules,—
 - (a) for the words "Board and the Faculty", the word "Council" shall be substituted ;
 - (b) the words, "or, as the case may be, the Chairman" shall be deleted.
6. In rule 4 of the principal rules,—
 - (a) the words "or the Chairman" shall be deleted ;
 - (b) for the words "Board or the Faculty", the word "Council" shall be substituted ;
 - (c) for the words "Board or the Faculty, as the case may be,"; the word "Council" shall be substituted.
7. In rule 5 of the principal rules,—
 - (a) in sub-rule (1), for the words "Board and the Faculty", the word "Council" shall be substituted ;
 - (b) in sub-rule (2), in clause (iii), the words "or, as the case may be, the Chairman" shall be deleted ;
 - (c) in sub-rule (3), the words "or, as the case may be, the Chairman" shall be deleted.
 - (d) in sub-rule (4), for the words "Board or, as the case may be, the Faculty" the word "Council" shall be substituted.
8. In rule 6 of the principal rules,—
 - (a) in sub-rule (1)—

(i) for the words "Board or the Faculty", the word "Council" shall be substituted ;

(ii) the words "or, as the case may be, the Chairman" shall be deleted ;

(b) in sub-rule (2), in clauses (b) and (c), for the words "Boards or the Faculty, as the case may be", the word "Council" shall be substituted ;

(c) in sub-rule (3) and the proviso thereunder, the words "or the Chairman" shall be deleted ;

(d) in sub-rule (4), the words "or the Chairman" shall be deleted.

9. In rule 7 of the principal rules,—

(a) in sub-rule (1), the words "or, as the case may be, the Chairman" shall be deleted ;

(b) in sub-rule (2), the words "or the Chairman" wherever they occur, shall be deleted ;

10. In rule 9 of the principal rules, in sub-rule (1), for the words "Board or the Faculty" occurring at three places, the word "Council" shall be substituted.

11. In rule 13 of the principal rules, for the words, "Board, or the Faculty, as the case may be", the word "Council" shall be substituted.

12. In rule 14 of the principal rules, in sub-rule (2), for the words "Board or the Faculty, as the case may be", the word "Council" shall be substituted.

13. In rule 15 of the principal rules, in sub-rule (2), for the words "Board or the Faculty", the word "Council" shall be substituted.

14. In rule 16 of the principal rules, in sub-rule (1) for the words "Board or the Faculty", the word "Council" shall be substituted.

15. In rule 17 of the principal rules, for the words "Board or the Faculty", the word "Council" shall be substituted.

16. In rule 18 of the principal rules, in sub-rule (1),—

(a) for the words "Board or the Faculty", the word "Council" shall be substituted.

(b) for the words "board or, as the case may be, the Faculty", the word "Council" shall be substituted.

17. In rule 20 of the principal rules,—

(a) in sub-rule (3), the words "or the Chairman" shall be deleted;

(b) in sub-rule (4), the words "or, as the case may be, the Chairman" shall be deleted.

18. In rule 22 of the principal rules,—

(a) the words "or the Chairman", shall be deleted;

(b) for the words "Board or, as the case may be, the Faculty", the word "Council" shall be substituted.

19. In rule 23 of principal rules, in sub-rule (1) for the words "Board the Faculty", the word "Council", shall be substituted:

20. In rule 24 of the principal rules,—

(a) for the words "Board and the Faculty", the word "Council" shall be substituted;

(b) for the words "Board and Faculty", as the case may be, the word "Council" shall be substituted:

21. In rule 25 of the principal rules, for the words "Board or, as the case may be, the Faculty", the word "Council" shall be substituted.

22. In rule 26 of the principal rules, for the words "Board and the Faculty", the word "Council" shall be substituted.

23. In rule 27 of the principal rules, for the portion beginning with the words "Board or the Faculty" and ending with words, brackets and figures "sub-section (7) of that section", the words "Council" shall be substituted.

24. For rule 28 of the principal rules, the following shall be substituted, namely:—

"28. *Travelling allowance for attending meetings.*—The travelling expenses of the members of the Council for attending the meetings of the Council, shall be paid, as follows:—

(a) official who are Government servants may draw the travelling and halting allowances which they may be entitled to claim for travelling on official duties according to their grades under the Bombay Civil Services Rules.

(b) A non-official member shall draw travelling allowance according to rule 1 (1) (b) in section 1 of the Appendix XLII-A to the Bombay Civil Services Rules, Volume II".

MEDICAL EDUCATION AND DRUGS DEPARTMENT

No. ACT. 2282/1699/MED/8.—(*Mantralaya, Bombay 400 032, dated 21st March 1985*)—In exercise of the powers conferred by clause (a) of sub-section (2) of section 30, read with sub-section (1) of section 4 of the Maharashtra Medical Practitioners' Act, 1961 (Mah. XXVIII of 1961), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the Maharashtra Board and Faculty of Ayurvedic and Unani Systems of Medicine (Election) Rules, 1967, the same having been previously published as required by sub-section (1) of the said Section 30, namely:—

1. These rules may be called the **Maharashtra Board and Faculty of Ayurvedic and Unani Systems of Medicine (Election) (Amendment) Rules, 1984.**

2. In the preamble of the Maharashtra Board and Faculty of Ayurvedic and Unani Systems of Medicine (Election) Rules, 1967 (hereinafter referred to as "the principal rules") for the words, brackets and figure "sub-section (5) of section 3 and " the words brackets and figure "sub-section (1) of " shall be substituted-

3. In rule 1 of the principal rules, for the words "Board and Faculty of Ayurvedic and Unani Systems of Medicine", the words "Council of Indian Medicine" shall be substituted.

4. In rule 2 of the principal rules,—

(i) for clause (b), the following shall be substituted, namely :—

'(b) "election to the Council" means an election to the Council under clauses (c) and (d) of sub-section (1) of section 3A ; ' ;

(ii) clause (c) shall be deleted.

5. In Part II of the principal rules, in the heading, for the word "Board" the word "Council" shall be substituted.

6. In rule 3 of the principal rules,—

(i) in sub-title, for the word "Board" the word "Council" shall be substituted ;

(ii) in sub-rule (1),—

(a) for the words, brackets and figures "proviso to sub-section (3) of section 3" the words brackets and figures "proviso to sub-section (1) of section 4" shall be substituted,

(b) for the word "Board" the word "Council" shall be substituted;

(iii) in sub-rule (2), for the word "Board" occurring at two places, the word "Council" shall be substituted.

7. After rule 3 of the principal rules, the following shall be inserted, namely :—

"3A *Preparation of list of voters.*—(1) For the purpose of elections under clause (d) of sub-section (1) of section 3A, the Registrar shall prepare a list of voters of—

(a) Principals or heads of recognised institutions, and

(b) Teachers (other than Principals or heads) of recognised institutions, who are registered practitioners possessing any of the qualifications specified in the Schedule and for a period of not less than two years engaged in teaching in any of the system of Indian Medicine in any recognised institution, showing against the name of each voter included in the list of voters his qualifications and address.

(2) The Registrar may call upon the principals or the heads of recognised institutions to furnish such information as may be required for the purpose of preparing the list of voters, under sub-rule (1).

(3) The Registrar shall, on a date not earlier than six months from the date of expiry of the term of members of the Council, publish the list of voters by exhibiting copies thereof in the office of the Council and also send copies of the list of voters to the principals or heads of recognised institutions calling for objections within fifteen days from the date of the publication of such list. All objections received within the specified period shall be considered by the Registrar, who shall after making such inquiries as he deems fit, amend the list of voters as far as possible by making such alterations in, and additions to, the said list as found necessary within a period of seven days after the expiry of the period of fifteen day referred to above.

(4) The list of voters shall, subject to the alterations and additions made under sub-rule (3), if any, be the final and conclusive list of voters for the purpose of election to the Council.

(5) The Registrar shall forward to the Returning Officer five copies each of the list of voters as soon as after the notification, calling upon principals or heads or teachers referred to in sub-clauses (i) and (ii) of clause (d) of sub-section (1) of section 3A, has been issued under these rules."

8. In Part III of the principal rules, in the heading, for the word "Board" the word "Council" shall be substituted.

9. In rule 4 of the principal rules, in the sub-title and in the body of the rule, for the words "Board" the word "Council" shall be substituted.

10. In rule 5 of the principal rules,—

(i) in sub-rule (1), for the word "Board" where it occurs at three places, the word "Council" shall be substituted;

(ii) in sub-rule (2), for the word, brackets letter and figures "clause (b) of sub-section (2) of section 3" the words, brackets, letters and figures

"clause (c) of sub-section (1) of section 3A" shall be substituted.

11. In rule 6 of the principal rules, for the word "Board" wherever it occurs, the word "Council" shall be substituted.

12. In rule 8 of the principal rules,—

(a) in sub-rules (3), (5) and (6) for the word "Board" where it occurs, the word "Council" shall be substituted;

(b) in sub-rule (4), for the words, bracket and figure "sub-rule (2)" the words, brackets and figure "sub-rule (1)" shall be substituted.

13. In rule 9 of the principal rules,—

(i) in sub-rules (5), (6) and (8), for the word "Board" where it occurs, the word "Council" shall be substituted;

(ii) in sub-rule 7, in clause (b), for the words, brackets and figures "under sub-section (3) of section 3", the words, brackets, figures and letter "under sub-section (2) of section 3A" shall be substituted.

14. In rule 14 of the principal rules, in sub-rule (1), in clause (a), for the word "Board", the word "Council" shall be substituted.

15. In Part IV of the principal rules, for the existing heading, the heading "Casual Vacancies" shall be substituted.

16. For rule 15 of the principal rules, the following shall be substituted, namely :—

"15. *Filling of casual vacancies of elected members of Council.*—The President shall inform the State Government of every vacancy in the office of an elected member of the Council within a period of thirty days from the occurrence thereof".

17. Part V, VI and VII of the principal rules, shall be deleted.

18. For Forms 'A' to 'F' appended to the principal rules, the following Form shall be substituted, respectively, namely :—

FORM 'A' to 'P'

(omitted)

Published in the *Maharashtra Govt. Gazette*, Part IV(Aa), dated September 19, 1985.

PUBLIC HEALTH DEPARTMENT

No. BDM. 1083/1383/CR-100. FW-III —(Mantralaya, Bombay 400 032, dated the 29th August, 1985)—In exercise of the powers conferred by section 30 of the Registration of Births and Deaths Act, 1969 (18 of 1969), and of all other powers enabling it in that behalf the Government of Maharashtra with the approval of the Central Government, hereby makes the following rules further to amend the Maharashtra Registration of Births and Deaths Rules, 1976, namely :—

1. These rules may be called the **Maharashtra Registration of Births and Deaths (Amendment) Rules, 1985.**

2. In the Maharashtra Registration of Births and Deaths Rules, 1976 (hereinafter referred to as "the principal rules"), in rule 5, for sub-rule (2), the following shall be substituted, namely :—

"(2) The information referred to in sub-rule (1) shall be given within fourteen days from the date of live-birth, still-birth or death, as the case may be."

3. In rule 7 of the principal rules, for sub-rule (2), following shall be substituted, namely:—

“(2) Such information shall be given within fourteen days from the date of live birth or death, as the case may be.”

4. In rule 11 of the principal rules, in sub-rule (1), for the proviso, the following shall be substituted, namely:—

“Provided that if the information is given after the aforesaid period of 12 months but within a period of 15 years, it shall be reckoned—

(i) in case where the registration has been made prior to the date of commencement of the Registration of Births and deaths (Amendment) Rules, 1985, from such date; or

(ii) in case where the registration of Births and deaths (Amendment) Rules, 1985, from the date of such registration.

subject to the provisions of sub-section (4) of section 23, the Registrar shall—

(a) if the register is in his possession, forthwith enter the name in the register on payment of a late fee of rupees two; and

(b) in the register is not in the possession and if the information is given orally, make a report giving necessary particulars, and, if the information is given in writing, forward the same to the officer specified by the State Government in this behalf for making the necessary entry on payment of a late fee of rupees two.”

5. In rule 12 of the principal rules, in sub-rules, (4), the words “as specified by the State Government” shall be deleted.

Published in the *Maharashtra Govt. Gazette* Part IV(Ba),
dated 15th August, 1985.

FINANCE DEPARTMENT

No. STR. 1085/CR 21/RES-7.—(*Mantralaya, Bombay 400 032, dated the 5th July, 1985*).—Whereas, the Government of Maharashtra is satisfied that circumstances exist which render it necessary to take immediate action further to amend the Bombay Sales Tax Rules, 1959 (hereinafter referred to as “the said rules”) and to dispense with the condition of previous publication thereof under sub-section (4) of section 74 of the Bombay Sales Tax Act, 1959 (Bom. LI of 1959) hereinafter referred to as “the said Act”;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (xiv) of sub-section (2) read with the proviso to sub-section (4) of section 74 of the said Act and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the said rules, namely:—

1. These rules may be called the **Bombay Sales Tax (Second Amendment) Rules, 1985.**

2. In rule 42A of the Bombay Sales Tax Rules, 1959,—

(a) in clause (2), for the figures, brackets and words “15, 32, 39 (i) and 39 (ii) and 47, 59, 70, 76 or 109”, the following shall be substituted, namely:—

“1, 15, 32, 39(i), 39(ii) and 47, 59, 70, 76 or 109”;

(b) in clause (3), for the figures and word “15, 76 or 109”, the following shall be substituted, namely:—

“1, 15, 76 or 109”:

(c) in clause (4), after the words and figures "which is certified by the Commissioner for the purpose of entry 109 of the said Schedule, to whom he has resold the said goods", the following shall be added, at the end, namely ;—

"or produce a declaration in Form A-1 appended to the said notification, furnished by the purchasing officer-in-charge of the Canteen Stores Department or the Indian Naval Canteen Service, to whom he has resold the said goods".

Published in the *Maharashtra Govt Gazette*, Part IV (Ba), dated August 15, 1985.

RURAL DEVELOPMENT DEPARTMENT

No. ZPR.1085/ CR-27/64 — *Mantralaya, Bombay 4000032, dated the 18th July 1985* — In exercise of the powers conferred by clause (ii) of sub-section (2) of section 274, read with sub-section (2) of section 12 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), and of all other powers enabling it in this behalf and in supersession of the Maharashtra Zilla Parishads Scheduled Castes and Scheduled Tribes (Manner and Periodicity of Rotation of Reservation of Seat) Rules, 1967, the Government of Maharashtra hereby makes the following rules the same having been previously published as required by sub-section (3) of the said section 274, namely:—

RULES

1. *Short title* — These rules may be called the **Maharashtra Zilla Parishads Schedule Castes and Scheduled Tribes (Manner of Reservation of Seats) Rules 1985**.

2. *Definition*.—In these rules, unless the context requires otherwise,—

(a) "Act" means the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961;

(b) "electoral division" means an electoral division of a district constituted under sub-section (1) of section 12;

(c) "population" means population as defined in clause (20A) of section 2 ;

(d) "section" means a section of the Act.

3. *Power of State Government to determine number of seats to be reserved for Schedule Castes and Schedule Tribes in electoral divisions in a District*.— For every general election to a Zilla Parishad the State Government shall, having regard to the percentage of the population of the Scheduled Castes and Scheduled Tribes to the total rural population in the district, determine the number of seats to be reserved for such Castes or Tribes which shall be in proportion to the total number of seats for the Councilors to be chosen by direct election from the electoral divisions, as determined under clause (a) of sub-section (1) of section 9.

Note.—Proportion means proportion of the Castes or Tribes population to the total population.

4. *Manner of distribution of seats reserved for the Scheduled Casts and Scheduled Tribes in electoral divisions in a District* —(1) The number of seats reserved for the Scheduled Castes and Scheduled Tribes, as determined under the preceding rule, shall be distributed among the electoral divisions

in the District where the percentage of the Scheduled Castes or Scheduled Tribes population with the total rural population of the electoral division is the highest. The seats shall be distributed in the descending order.

(2) The State Government shall, by notification in the Official Gazette, specify the electoral divisions in which the seats have been reserved for the Scheduled Castes and Scheduled Tribes. The notification shall state that any objections or suggestions which may be received by the State Government within a period of not less than seven days, to be specified in the notification, shall be considered by the State Government.

RURAL DEVELOPMENT DEPARTMENT

No. PSR. 1085/CR-28/64.—(*Monrataya, Bombay 400 032 dated the 18th July, 1985*).—In exercise of the powers conferred by clause (xiii) of sub-section (2) of section 274, read with clause (a-a) of sub-section (1) of section 58 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah V of 1962), and of all other powers enabling it in this behalf and in supersession of the Maharashtra Panchayat Samitis Scheduled Castes and Scheduled Tribes (Manner and Periodicity of Rotation of Reservation of seats) Rules, 1985, the Government of Maharashtra hereby makes the following rules the same having been previously published as required by sub-section (3) of the said section 274, namely :—

RULES

1 *Short title*.—These rules may be called the Maharashtra Panchayat Samitis Scheduled Castes and Scheduled Tribes (Manner of Reservation of Seats) Rules, 1985.

2 *Definitions*.—In these rules, unless the context requires otherwise,—

(a) “Act” means the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 ;

(b) “electoral college” means an electoral college determined under clause (a) of sub-section (1) of section 58 ;

(c) “electoral division” means an electoral division of a district constituted under section 12 ;

(d) “population” means population as defined in clause (20A) of section 2 ;

(e) “section” means a section of the Act.

3 *Power of the State Government to determine number of seats to be reserved for Scheduled Castes and Scheduled Tribes on Panchayat Samitis*.—

(1) Subject to the provision of sub-rule (2), for every general election to a Panchayat Samiti the State Government shall, having regard to the percentage of population of Scheduled Castes and Scheduled Tribes to the total rural population in the Block and after taking into account the total number of electoral colleges and electoral divisions in the Block, determine the number of seats to be reserved for such Castes or Tribes in that Block:

Provided that, in determining the number of seats to be reserved for such Castes or Tribes in a Block, if a Block is not otherwise entitled to reservation of any seat but if the population of such Castes or Tribes in

that Block is not less than one per cent of the total rural population then one seat shall be reserved for such Castes or Tribes, as the case may be, provided no electoral division in that Block is reserved for such Castes or Tribes.

(2) In determining the total number of seats to be reserved for the Scheduled Castes or Scheduled Tribes in a Block, the number of seats already reserved for such Castes or Tribes in any electoral division included in that Block shall be excluded from the total number of seats to be reserved for such Castes or Tribes in that Block.

4. *Manner of distribution of seats reserved for Scheduled Castes and Scheduled Tribes among the electoral colleges in a Block.*—(1) The number of seats to be reserved for Scheduled Castes and Scheduled Tribes in a Block, as determined under rule 3, shall be distributed in a descending order among the electoral colleges having the highest percentage of population of Scheduled Castes or Scheduled Tribes in that Block :

Provided that, no seat shall be reserved for Scheduled Castes or Scheduled Tribes in an electoral college if a seat has already been reserved for such Castes or Tribes in the electoral division of which the electoral college forms the part of such electoral division unless the population of Scheduled Castes or Scheduled Tribes is not less than two-third of the total population of the electoral college. In case, if the total population of Scheduled Castes or Scheduled Tribes in the electoral college is less than two-thirds, then the reserved seat shall be given to the electoral college having the next highest population of such Castes or Tribes in that Block.

(2) The State Government shall by notification in the Official Gazette specify the electoral colleges in which seats have been reserved for Scheduled Castes and Scheduled Tribes. The notification shall state that any objections or suggestions which may be received by the State Government within a period of not less than seven days, to be specified in the notification, shall be considered by the State Government.

Published in the *Gujarat Government Gazette*, Part IV-A, No. 42, dated 17th October, 1985.

FOOD AND CIVIL SUPPLIES DEPARTMENT

No. GTH-85-31 (A)-KSN-/1082/4943/B.—(*Sachivalaya, Gandhinagar, 13th August, 1985*).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with Order of the Government of India, Ministry of Industry and Civil Supplies (Department of Civil Supplies and Corporation) Nos. S. O. 681-(E), dated the 30th November, 1974 and S. O. 682(E), dated the 30th November, 1974 and the Ministry of Agriculture (Department of Food) G.S.R. Nos. 452(E), dated the 25th October, 1972, G.S.R. 163(E), dated the 13th March, 1973 and Ministry of Agriculture (Department of Food) G.S.R. 300, dated the 9th June, 1978 and with the prior concurrence of the Central Government, the Government of Gujarat hereby makes the following order further to amend the Gujarat Essential Articles (Licensing, Control and Stock Declaration) Order, 1981, namely :—

1. (1) This Order may be called the Gujarat Essential Articles (Licensing, Control and Stock Declaration) (Amendment) Order, 1985.

(2) It shall come into force at once.

2. In the Gujarat Essential Articles (Licensing, Control and Stock Declaration) Order, 1981, in Schedule-I, in Part-II under the heading "other than foodstuff" in entry (2) for sub-entry "(b) light diesel oil" the following shall be substituted namely :—

"(b) light diesel oil i. e. crude oil".

INDUSTRIES, MINES & ENERGY DEPARTMENT

No. GU/85/50/MCR/2184(8)/4054/CHH.—*Sachivalaya, Gandhinagar, 26th August, 1985.*—In exercise of the powers conferred by Section-15 of the Mines and Mineral (Regulation and Development) Act, 1957 (67 of 1957) the Government of Gujarat hereby makes the following rules further to amend the Gujarat Minor Mineral Rules, namely :—

1. These rules may be called the Gujarat Minor Mineral (Amendment) Rules, 1985.

2. They shall come into force with effect from 1st September 1985.

3. In rule-3,

(a) The proviso below sub-rule (1) shall be deleted.

(b) In sub-rule (5), in the proviso, for the word and roman letter "Schedule-I", the word "Schedule" shall be substituted.

4. (a) In rule-7, for the words "Rupees Fifty" the words "Rupees two hundred fifty for an area of less than five hectares and rupees five hundred for an area of five hectares and more" shall be substituted

(b) In form 'A', from para-2, the figure "50" shall be deleted and a blank shall be kept.

(c) The following explanation shall be added below rule-7

"Explanation.—The fee mentioned in this rule is applicable for the area mentioned in the application and no refund will be due if a reduced area is sanctioned."

5. From rule-11, sub-rule (3) shall be deleted.

6. (a) In rule-18 in sub-rule (4), for the words "rupees twenty five" the words "rupees two hundred fifty for an area of less than five hectares and rupees five hundred for an area of five hectares or more" shall be substituted.

(b) In form "F", from para-2, the figure "15" shall be deleted and a blank shall be kept.

(c) In rule 18, below sub-rule (4) the following explanation shall be added :—

"Explanation.—The fee mentioned in this sub-rule is applicable for the area mentioned in the application and no refund will be due if a reduced area is sanctioned."

7. From the said rules, rule 18B shall be deleted

8. (a) In rule-20, in sub-rule (2), for the words "rupees two hundred and fifty" the words "rupees one thousand for first two hectares and rupees one thousand for every additional two hectares or part thereof" shall be substituted.

(a) In rule-22, clause (i) (a) shall be renumbered as clause (i) and in the clause (i) so renumbered, for the word and roman figure "Schedule-I" the word "Schedule" shall be substituted

(b) From rule-22, sub-clause (b) of clause (i) and the proviso below it shall be deleted.

10 In rule-33—C, in sub-rule (1)—

(a) For the words "rupees ten" appearing at two places the words "rupees fifty for an area up to 1000 sq. mtrs. and rupees one hundred for an area above 1000 square meters and upto 2000 square meters" shall be substituted.

(b) In clause (a) for the words and Roman figures "Schedule-I", the words "Schedule" shall be substituted.

(c) Clause (b) shall be deleted.

(d) From clause (i), the words "and dead rent" and the words "together with a fine not exceeding double the annual deed rent" shall be deleted

11. In rule 34, for the word and Roman letter "Schedule-I" the word "Schedule" shall be substituted.

12. For existing rule-36, following rule-36 shall be substituted.—

"36. Application for a quarry permit shall be accompanied by a fee at the rate of Rs. 50/- for every 500 tonnes or part thereof paid by a treasury challan in the manner specified in rule-7 for grant of a quarry lease"

13. In rule-39, for the words "rupees twenty five" the words "rupees two hundred fifty" shall be substituted.

14. (A) After Rule-44:C, the following rule 44-D, shall be added :

"44D :—Refunds : (a) No refund will be admissible if on application made under these rules is withdrawn by the applicant; or having been sanctioned, the applicant refuses to accept the lease, parawana or permit as the case may be.

(b) If an application other than the application referred to in rule-39 is refused, 90% of the fee paid by the applicant shall be refunded to him by the competent officer."

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dated 14th August, 1985

FINANCE DEPARTMENT

No. STR. 1085/CR-24/85/RES-7—(*Mantralaya, Bombay 4000 032, dated 24th July 1985*)—Whereas, the Government of Maharashtra is satisfied that circumstance exist which render it necessary to take immediate action further to amend the Bombay Sales Tax Rules, 1959 (hereinafter referred to as "the principal rules") and to dispense with the condition of previous publication thereof under sub-section (4) of section 74 of the Bombay Sales Tax Act, 1959 (Bom. LI of 1959) (hereinafter referred to as "the said Act");

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (x) and (xiv) of sub-section (2) read with proviso to sub-section (4) of section 74 of the said Act and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the principal rules, namely :—

1. These rules may be called the **Bombay Sales Tax (Third Amendment)**

2 In rule 22 of the Bombay Sales Tax Rules, 1959, in sub-rule (2), in clause (d-a),—

(i) for the words "exceeds rupees five thousand" the words "is not less than rupees twenty thousand" shall be substituted ;

(ii) after the words "monthly returns for each of the month" the following shall be inserted, namely :—

"commencing from the month, the return for which falls due in the month of August, 1985";

(iii) for the existing second proviso, the following proviso shall be substituted as second proviso, namely :—

"Provided further that every dealer who is ordinarily liable to furnish quarterly return and the amount of tax payable by him was less than rupees twenty thousand in the previous year, but is not less than rupees twenty thousand during the current year, shall, with effect from the commencement of the quarter following the quarter during which the amount of tax payable reaches rupees twenty thousand, furnish monthly returns as provided in the clause :".

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dated October 31, 1985

REVENUE AND FORESTS DEPARTMENT

No. CON. 2785/188943/594/L-1.—(Mantralaya, Bombay 400 032, dated the 23th October, 1985—In exercise of the powers conferred by clause (s) of sub-section (2) of section 37 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Bom. LXII of 1947), and all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section 37, namely :—

RULES

1. These rules may be called the **Bombay Prevention of Fragmentation and Consolidation of Holdings (Amendment) Rules, 1985**.

2. In rule 28-A of the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1959, for the words, figures and letters "the 31st day of July, 1983", the words, figures and letters "the 31st day of December, 1985" shall be substituted.

REVENUE AND FORESTS DEPARTMENT

No. EDC.1083/264/CR-28/L-2.—(Mantralaya Bombay 400 032, dated the 13th August, 1985—In exercise of the powers conferred by clauses (b), (c) and (f) of sub-section (2) of section 26 of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Mah. XXVII of 1962) add of all the powers enabling it in that behalf the Government of Maharashtra hereby makes the following rules further to amend the Maharashtra Education (Cess) Tax on Lands and Buildings (Collection and Refund) Rules, 1962, the same having been previously published as required by sub-section (3) of the said section 26, namely :—

1. These rules may be called the **Maharashtra Education (Cess) Tax on Lands and Buildings (Collection and Refund) (Amendment) Rules, 1985**.

2. In rule 1 of the Maharashtra Education (Cess) Tax on Lands and Buildings (Collection and Refund) Rules, 1962 (hereinafter referred to as "the said rules"), after the words "the Maharashtra Education", the words "and Employment Ouranttee" shall be inserted.

3. In rule (2) of the said rules, for clause (a), the following clause shall be substituted, namely ;—

“(a) ‘Act’ means the Maharashtra Education and Employment Guarantee (Cess) Act, 1962”.

4. In the second proviso to rule 4 of the said rules, for the words “two hundred rupees”, the words “one thousand rupees” shall be substituted.

HOME DEPARTMENT

No. MTA. 1985 (d)/TRA-3 —(Mantralaya, Bombay 400 032, dated the 20th August, 1985)—In exercise of the powers conferred by sub-section (2) of section 1 of the **Bombay Motor Vehicles Tax (Amendment) Act, 1985** (Mah. XX of 1985), the Governor of Maharashtra hereby appoints the 1st day of September, 1985 to be the date on which the said Act shall come into force.

Published in the *Gujarat Govt Gazette*, Part IV-(A), No. 42, dated October 17, 1985

INDUSTRIES, MINES & POWER DEPARTMENT

No GU/85/41/MCR-2185(15)/1292-CHH.—(Sachivalaya, Gandhinagar, 26th June, 1985)—In exercise of the powers conferred by section 15 of the **Mines and Minerals (Regulation and Development) Act, 1957** (67 of 1957), the Governor of Gujarat hereby makes the following rules further to amend the Gujarat Minor Mineral Rules, 1976, namely :—

(1) These rules may be called **Gujarat Minor Mineral (Amendment) Rules, 1985**.

(2) They shall come into force on 1st July, 1985.

2. In the Gujarat Minor Mineral Rules, 1966 for sub rule 21, the following rule shall be substituted, namely :—

“21. **Rate of Royalty.**—The holder of a quarry lease or any other mineral concession granted under these rules shall pay royalty in respect of minor minerals, specified in column 2 of the schedule, removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rates respectively specified against them in column 3 of the said schedule.

Provided that—

(i) the holder of a parwana granted under these rules shall pay royalty at the rate of fifty percent of the rate of royalty specified in the said schedule.

(ii) no royalty shall be charged from Nimbhadas of Village Potters who manufacture upto one lakh bricks per year,

(iii) no-royalty shall be charged from Nimbhadas of Village Potters if their annual production is not exceeding two lakhs bricks and they supply atleast one lakh bricks to the Rural Housing Board or Panchayats.

(iv) Royalty shall be recoverable in whole rupees, fraction fifty paise and above to be rounded upwards to a whole rupee and fraction below fifty paise shall be ignored.

3. For Schedule I the following schedule shall be substituted, namely :—

SCHEDULE
(See rule 21)

Entry No.	Minor Minerals	Rate per Metric tonne in Rs.
1	2	3
1. Limestone		
(a) Dressed		
(b) Undressed (Inclusive of lime Kankar)		
(c) Coloured limestone		10
2. Sand stone		
(a) Dressed		7
(b) Undressed		4
3. Quartzite		4
4. Phyllite		4
5. Slate		7
6. Granite		7
7. Other building stones		
(a) Trachyte (Rajula Bldg. stone)		7
(u) Rhyolite Gubbro		7
8. Marble		40
(a) Blocks		10
(b) Rubble		
9. Black trap & Hard Murrum		7
10. Ordinary sand		3
11. Kankar		3
12. Gravel		3
13. Murrum		3
14. Ordinary clay		3
15. Brick earth		3
16. Bontoite		20
17. Fuller's earth		20
18. Pebbles		7
19. Quartzite pebbles		7

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October 31, 1985.

HOME DEPARTMENT

No. MTA. 1985 (b)-TRA-3.—(Mantralya, Bombay 400 032, dated 22nd August 1985).—In exercise of the powers conferred by sub-section (1B) of section 3 of the **Bombay Motor Vehicles Tax Act, 1958** (Bom. LXV of 1958), and in supersession of Government Notification, Home Department, No. MTA. 1982/22(b)-TRA-3, dated the 25th November 1982, the Government of Maharashtra is hereby pleased to direct that, on and from the 1st day of September 1985, there shall be levied and collected, in addition to the tax levied and collected under sub-section (1) of the said section 3, a further tax on private goods vehicles and public goods vehicles specified in column 1 of the Schedule appended hereto, at the annual rates respectively specified against them in column 2 thereof.

SCHEDULE

Motor Vehicles	Annual rate of tax.
1	2
	Rs.
I Private Goods Vehicles—	
(a) Vehicle, the carrying capacity of which does not exceed 2 metric tonnes.	306.00
(b) Vehicles, the carrying capacity of which exceeds 2 metric tonnes but does not exceed 3 metric tonnes.	450.00
(c) Vehicles, the carrying capacity of which exceeds 3 metric tonnes but does not exceed 4 metric tonnes.	621.00
(d) Vehicles, the carrying capacity of which exceeds 4 metric tonnes but does not exceed 5 metric tonnes.	747.00
(e) Vehicles, the carrying capacity of which exceeds 5 metric tonnes but does not exceed 6 metric tonnes.	837.00
(f) Vehicles, the carrying capacity of which exceeds 6 metric tonnes but does not exceed 7 metric tonnes.	909.00
(g) Vehicles, the carrying capacity of which exceeds 7 metric tonnes but does not exceed 8 metric tonnes.	999.00
(h) Vehicles, the carrying capacity of which exceeds 8 metric tonnes but does not exceed 9 metric tonnes.	1,035.00
(i) Vehicles, the carrying capacity of which exceeds 9 metric tonnes but does not exceed 10 metric tonnes.	1,125.00
(j) Vehicles, the carrying capacity of which exceeds 10 metric tonnes.	1,197.00
II. Public Goods Vehicles—	
(a) Vehicles, the carrying capacity of which does not exceed 2 metric tonnes.	408.00
(b) Vehicles, the carrying capacity of which exceeds 2 metric tonnes but does not exceed 3 metric tonnes.	600.00
(c) Vehicles, the carrying capacity of which exceeds 3 metric tonnes but does not exceed 4 metric tonnes.	828.00
(d) Vehicles, the carrying capacity of which exceeds 4 metric tonnes but does not exceed 5 metric tonnes.	996.00
(e) Vehicles, the carrying capacity of which exceeds 5 metric tonnes but does not exceed 6 metric tonnes.	1,116.00
(f) Vehicles, the carrying capacity of which exceeds 6 metric tonnes but does not exceed 7 metric tonnes.	1,212.00
(g) Vehicles, the carrying capacity of which exceeds 7 metric tonnes but does not exceed 8 metric tonnes.	1,332.00
(h) Vehicles, the carrying capacity of which exceeds 8 metric tonnes but does not exceed 9 metric tonnes.	1,380.00
(i) Vehicles, the carrying capacity of which exceeds 9 metric tonnes but does not exceed 10 metric tonnes.	1,500.00
(j) Vehicles, the carrying capacity of which exceeds 10 metric tonnes.	1,596.00

THE END

OF LAW